

Fix-IT Online Ltd: General Terms and Conditions of Trading

These "Terms and Conditions" will apply to and govern all Contracts under which "Fix-IT Online Ltd", its affiliates, subsidiaries, agents or contractors acting on its behalf, agree to supply goods and services, and shall prevail over any terms and conditions of the client, whether referred to in the client's order, or in correspondence and elsewhere, or implied by trade custom practice or course of dealing. Any purported provisions to the contrary are hereby excluded or extinguished. No variation of these terms and conditions shall be effective unless previously agreed in writing.

1. Definitions and Interpretation

1.1 In these terms and conditions the following words have the meanings given:- "Contract or Service" means a contract for the purchase by the Client of Goods or Services from Fix-IT Online Ltd incorporating these terms and conditions and arising from the acceptance by Fix-IT Online Ltd of an Order;" Client" means the person, firm or company ordering Goods or Services;" Default" shall mean any breach by either party of its obligations under a Contract, any default, act, omission, negligence or statement by either party, its employees, agents or sub-contractors arising out of or in connection with a Contract and in respect of which either party may be legally liable; "Fix-IT Online Ltd or "We"" means the company, its staff or employees or any such other business Fix-IT Online Ltd may appoint as sub-contractor to provide the Services to the Client; "Intellectual Property Rights" means copyright, patent, trademark, service marks, registered designs, sui generis rights, know-how, confidential information, trade or business names or other similar rights together with applications for any of the foregoing; "Licence Agreement" means any licence agreement relating to use of the Software; "Order" means any written or verbal order for Goods or Services, received by Fix-IT Online Ltd from the Client; "Services" means any configuration or installation services provided by Fix-IT Online Ltd as sub-contractor of the Client to end-users of Goods in conjunction with the supply of Goods or services; "Software" means any computer software supplied by Fix-IT Online Ltd, whether embodied in ROM, RAM, firmware or on disk, tape or other media. "Hardware," means any PC, Laptop, printer, peripheral, router, cable, media drive or any computer Component not deemed as software. "Data" all information of whatsoever nature (whether oral, written or in any other form) containing or consisting of material of a technical, operational, administrative, economic, marketing, planning, business or financial nature or in the nature of intellectual property of any kind or in the nature of Specifications and relating either to the Goods or Services, the Seller or the Buyer (as the case may be); "Delivery Address" the address for delivery of the Goods or Services as stated on the Order; "Price" the price payable for the Goods or Services as specified by the current tariff of Fix-IT Online Ltd or by specific manufacturers/vendors current tariffs and payable in accordance with the terms of this Agreement; "Goods or Services" such Goods or Services to be sold by Fix-IT Online Ltd to the Client as may be determined from time to time by the Fix-IT Online Ltd and the Client; "Vendor/Manufacturer" the supplier of goods to Fix-IT Online Ltd; "Sub-contractor" qualified third party used by Fix-IT Online Ltd to carry out repairs on its behalf; "Data Recovery" any attempt to recover, salvage or retrieve data from any computer storage media such as hard disks, floppy disks, USB disks, flash disks or any other computer-related equipment or media;

1.2 All other words and expressions are to be given their normal English meaning taken in the context of the Contract. Any dispute as to the meaning of a word is to be settled by reference to the Oxford English Dictionary.

1.3 Any reference to a clause shall mean a clause of these terms and conditions unless otherwise stated.

1.4 The use of headings in these terms and conditions shall be for convenience only and shall not affect the interpretation of these terms and conditions.

Terms:

2. Security and Data Safeguarding

- a. It is the client's responsibility to ensure that prior to Fix-IT Online Ltd starting work on its computer system or other electronic installation, that all critical data has been backed up fully, and that appropriate recovery procedures are in place.
- b. Fix-IT Online Ltd shall not be liable for any loss of data as a result of failure by the client to carry out the above procedures. If necessary, Fix-IT Online Ltd will make temporary back ups in order to carry out certain procedures, however, this will not constitute or replace a full data back up carried out by the client and any recovery of data will be performed using the clients own last back up.
- c. Any client data stored on equipment owned by Fix-IT Online Ltd (e.g. external hard drive or USB memory stick) as a result of a temporary back up or data transfer, will be held securely up to seven (7) working days from job date and then deleted unless the client requests otherwise. In compliance with English Law and Criminal Justice Acts, Fix-IT Online Ltd is obliged to report any apparent infringements if found on data during recovery or other works.

3. Software Licensing:

It is the client's responsibility to comply with the terms of use, distribution, duplication and other requirements, whether public or private in origin, applicable to any software supplied through Fix-IT Online Ltd or for any software for which Fix-IT Online Ltd is asked to work on. The Fix-IT Online Ltd employee working on site may delay any project until proof of licensing can be provided.

4. Hardware Supply, Software Supply and Warranty:

Fix-IT Online Ltd supplies industry standard branded hardware and recognised system software unless otherwise specified by the client. Unless otherwise stated all warranties are with the vendor and are on a return to base basis. Fix-IT Online Ltd reserves the right to take charge of this procedure at our normal hourly rates. Software vendors change and update their packages to correct errors on an ongoing basis e.g. "manufacturer's updates or modification" Fix-IT Online Ltd takes no responsibility for errors occurring in such software and while we will aim to provide any resolution specified by the vendor this will be done at our hourly rate. Should goods supplied by Fix-IT Online Ltd become defective we will undertake to:

- a. Replace the goods free of charge and install the goods at normal hourly rates providing the goods are within the standard manufacturers warranty period.
- b. Replace the goods at retail price plus normal hourly rates if the standard manufacturers warranty period has expired or has become void.

It is at all times the responsibility of the client to ensure that faulty goods are returned intact i.e. inclusive of original contents and in the manufacturers' packaging. Should returned goods not meet this criteria then replacement of such goods will be subject to the manufacturer/vendors own terms and conditions of sale and not those of Fix-IT Online Ltd. The client should be aware that in most cases, software once opened, cannot be returned of refunded.

Where Fix-IT Online Ltd has installed anti-virus software to clients systems, we accept no responsibility for the effectiveness of that software in protection from virus infections or hacking activity resulting in compromised systems or networks, damage to or loss of data either partial or total, however so caused. Liabilities will remain with the software manufacturer under their own terms and conditions at all times.

5. Maintenance of Protection: It is the client's responsibility to ensure that the effectiveness of any software supplied by Fix-IT Online Ltd is maintained, by acquisition from the original developer of such database files, programme patches or other revisions, as may become available from time to time. Under maintenance agreements, Fix-IT Online Ltd may request that the on-site engineer updates any critical patches required. Whilst every precaution will be taken to avoid disruption, Fix-IT Online Ltd takes no responsibility for any errors in software developed by third parties.

6. Privacy & Confidentiality: It is the client's responsibility to ensure that all applicable civil liberty legislation and personal privacy safeguards are observed when using software supplied by Fix-IT Online Ltd, both those enshrined in UK and EU law, and those included in any service contracts entered into by the Client. Fix-IT Online Ltd shall uphold client confidentiality at all times. Should the clients data need to be held electronically, legislation pertaining to the Data Protection Act 1998 (where applicable) shall be observed by Fix-IT Online Ltd and such data will not be passed to any third parties.

7. Managed Offsite Backup & Training Services: For terms relating to these Services, please refer to our separate terms and conditions of trading which can be supplied on request.

8. Sub-contractors: Fix-IT Online Ltd reserves the right to use qualified third party contractors in order to carry out work to agreed timescales or for specialist repairs for its clients.

9. Payment:

- a. Prices charged on any invoice or quotation is inclusive of VAT and delivery, unless otherwise stated, and may be varied without prior notice.
- b. For machine sales and associated hardware, payment shall be made in full on the date of delivery of goods.
- c. Where credit facilities have been approved, invoices for labour shall be paid within thirty (30) days from the date of invoice, otherwise payment terms will be seven (7) days from the date of invoice.
- d. If a dispute arises, Fix-IT Online Ltd will endeavour to rectify any invoicing errors made on its' behalf immediately, however, this shall not entitle the client to withhold payment of the full invoice value beyond the agreed payment terms period as above.
- e. In the event of late payment, Fix-IT Online Ltd reserves the right to withhold goods and services until such payment has been received in full and if necessary will take legal action using debt recovery agencies to recoup any outstanding payment should the agreed payment terms be exceeded.

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10. Delivery: The dates for delivery of goods, materials or execution of activities mentioned in any quotation or acknowledgement of orders are approximate only. Delivery may be made in whole, or in part, at the discretion of Fix-IT Online Ltd, and, where delivered by installments shall be invoiced separately and seen as separate contracts.

If in the case of the contract or any order involving more than one delivery, default is made in payment on the due date, Fix-IT Online Ltd shall have the right to suspend any further deliveries or activities pending payment, or to terminate the contract in its entirety. Delivery charges will be levied for all deliveries and is door to door only. Any further requirements will be met by Fix-IT Online Ltd staff at our standard hourly rates.

11. Copyright: Copyright of all material originated by Fix-IT Online Ltd, either in the form of pre-contract documentation, site documentation or as text, images, research papers or electronically stored code for the manipulation, transmission and presentation of information, remains property of Fix-IT Online Ltd. By separate negotiation and upon payment in full, copyright may be assigned or licensed to the client.

12. Ownership of Goods: Title to the goods shall only pass to the client upon payment in full of all sums owing or due to Fix-IT Online Ltd, whether under contract or otherwise. Until such payment the client shall store the goods in such a way as to show that:

- a. They are the property of Fix-IT Online Ltd or ensure that unpaid for goods are either returned intact in the manufacturers packaging.
- b. Or reasonable access is given to allow removal of goods that have been installed as part of repair procedure.

13. Risk: Risk in the goods or material passes upon delivery to the client's premises. Where material is transmitted electronically, risk will be deemed to have passed to the client, upon the moment of transmission - not of receipt.

14. Indemnity: The client will indemnify Fix-IT Online Ltd, its staff, contractors and agents for any loss or damage suffered or incurred as a result of failure to obtain any necessary license or consent to enter any premises, or premises being unsafe or unsuitable, or any failure of the client to comply with any conditions imposed by any other party.

15. Liability & Warranties: Fix-IT Online Ltd shall under no circumstances be liable for any loss, damage, expense or injury of any kind. Whether direct, consequential or otherwise, arising in connection with the execution of a contract or the use or failure of the goods supplied or any defect in them, or from any other cause whether or not due to the acts or omissions of Fix-IT Online Ltd, its staff, contractors, or its agents, in excess of the contract invoice value.

Where Fix-IT Online Ltd has completed the clients contract/service requirements, should the original logged fault(s) re-occur and be reported by the client within the timescales of sub-clauses "f." and "g." below and following a logged inspection by a qualified engineer, we will undertake repairs free of charge providing that hardware and components, software, drivers or networks have not been tampered with or altered to such an extent that they have directly or indirectly disrupted the original repair(s) carried out by Fix-IT Online Ltd by any of the following means:

- a. Client or third party misuse, negligence or failure to carry out correct operational procedures as stipulated by the manufacturer's user guide/manual or specific instructions given by Fix-IT Online Ltd either in writing, verbally or physically demonstrated to the client.
- b. Power failure or disruption to power supply however so caused.
- c. Any installations, updates or repairs to software, drivers, hardware, or networks carried out either by the client or any third parties whether manually, automatically or remotely.
- d. Failure of hardware/software due to fault or everyday wear and tear including manufacturer's updates/modifications.
- e. Malicious damage caused by computer viruses, hackers, vandalism or accidental damage e.g. drink spills, water leaks etc.

On provision of a qualified engineer's inspection report, should the original fault re-occur and does not meet any of the criteria above, Software or Component repairs carried out by Fix-IT Online Ltd will be guaranteed as follows:

- f. Up to thirty (30) days from the original date of repair for software repairs. Repair offered free of charge or a full refund given.
- g. Up to ninety (90) days from the original date of repair for component repairs. Repair offered free of charge or a full refund given.

All repairs carried out after the stated guarantee time period or as a result of any the means above will become void of guarantee and will be charged at normal hourly rates. Any components required will be charged at the current market retail value.

16. Force Majeure: Fix-IT Online Ltd shall not be liable to the client for any loss or damage which may be suffered by the client as a result of the delivery of goods, materials or the execution of a contract being delayed prevented hindered or made uneconomic by reason or circumstances or events beyond Fix-IT Online Ltd's control including, but not limited to:

- a. Act of God, or riot, strike, lock-out, trade dispute, act of terrorism, labour disturbance, restriction or ban on overtime, accident, fire, flood or storm difficulty or increased expense or;
- b. Failure by the client to give adequate instructions or supply the necessary information in due time or
- c. Failure by any third-party to carry out their part of the work or otherwise perform their obligations when required.

17. Claims: All claims in respect of material, goods or non-execution of the Contract must be made in writing and received by Fix-IT Online Ltd no later than fourteen (14) days of the date of delivery to the client, the client's premises or the client's vehicle, or in the case of electronic transmission, from the date of transmission.

18. Waiver: Any waiver by Fix-IT Online Ltd of any breach of any term of these Terms and Conditions shall be valid only if given in writing.

19. Severance: Fix-IT Online Ltd and the client believe that these Terms and Conditions are reasonable. If any provision shall be held to be contrary to applicable law, such provision shall be severed from the remainder, and the remainder shall continue in full force and effect.

20. Notices: Any notice hereunder shall be deemed to have been duly given if sent pre-paid first class post, fax or e-mail to the party concerned at the address specified.

21. Law: All contracts to which these Terms and Conditions apply shall be governed and construed in accordance with the laws of England and Wales, and the parties hereby submit to the jurisdiction of the courts of England and Wales.