

# Terms and Conditions of Ansaback's Services

## 1 Interpretation

### 1.1 In these Conditions:

"ANSABACK" means IPPLUS (UK) Limited (Company No. 3443083) whose registered office is at Melford Court, The Havens, Ransomes Europark, Ipswich, Suffolk, IP3 9SJ and includes any other subsidiary company (as defined in s.738 Companies Act 1985) of IPPLUS PLC (Company No. 3869545) which from time to time and for the time being is nominated by IPPLUS PLC to perform the obligations of IPPLUS (UK) Limited under the Contract

"ANSABACK'S CHARGES" means the charges specified in the Service Schedule as varied from time to time in accordance with the Service Schedule or as otherwise agreed between the parties

"CUSTOMER" means the person named in the Customer Particulars and the Service Schedule for whom Ansaback has agreed to provide the Specified Service in accordance with these Terms

"CUSTOMER PARTICULARS" means the particulars set out in Part 1 of the Contract relating to the Customer and the Specified Service

"CONTRACT" means the contract for the provision of the Specified Service comprising the Customer Particulars the Service Schedule and these Terms

"DOCUMENT" includes, in addition to a document in writing, a map, plan, design, drawing picture or other image, or any other record of any information in any form

"INPUT MATERIAL" means any Documents or other materials, and any data or other information provided by the Customer relating to the Specified Service

"NETWORK PROVIDER" means the Customer's telecommunications network provider from time to time and for the time being

"OUTPUT MATERIAL" means any Documents or other materials, and any data or other information provided by Ansaback relating to the Specified Service

"SERVICE SCHEDULE" means the service level agreement in Part 2 of the Contract

"SPECIFIED SERVICE" means the service to be provided by Ansaback for the Customer and described in the Service Schedule

### 1.2 The headings in these Terms are for convenience only and shall not affect their interpretation.

## 2 Supply of the Specified Service

2.1 Ansaback shall provide the Specified Service to the Customer subject to these Terms. Any changes or additions to the Specified Service or these Terms must be agreed in writing by Ansaback and the Customer in accordance with clause 8.

2.2 The Customer shall at its own expense supply Ansaback with all necessary Documents or other materials, and all necessary data or other information relating to the Specified Service, within sufficient time to enable Ansaback to provide the Specified Service in accordance with the Contract. The Customer shall ensure the accuracy of all Input Material.

2.3 The Customer shall at its own expense retain duplicate copies of all Input Material and insure against its accidental loss or damage. Ansaback shall have no liability for any such loss or damage, however caused. All Output Material shall be at the sole risk of the Customer from the time of delivery to or to the order of the Customer.

2.4 The Customer shall procure that its Network Provider arranges any network diversion facility which may be necessary to the performance by Ansaback of the Specified Service and that its Network Provider maintains that facility throughout the term of the Contract and the Customer authorises Ansaback (in the event of the Customer's default under this clause 2.4) to procure such network diversion facility on the Customer's behalf and at the Customer's expense (on an indemnity basis)

2.5 The Specified Service shall be provided in accordance with the Service Schedule and subject to these Terms.

2.6 Ansaback may at any time without notifying the Customer make any changes to the Specified Service which are necessary to comply with any applicable safety or other statutory requirements, or which do not materially affect the nature or quality of the Specified Service.

## 3 Charges

3.1 Subject to any special terms agreed, the Customer shall pay Ansaback's Charges and any additional sums which are agreed between Ansaback and the Customer for the provision of the Specified Service or which, in Ansaback's sole discretion, are required as a result of the Customer's instructions or lack of instructions, the inaccuracy of any Input Material or any other cause attributable to the Customer.

3.2 All charges quoted to the Customer for the provision of the Specified Service are exclusive of any Value Added Tax, for which the Customer shall be additionally liable at the applicable rate from time to time.

3.3 Ansaback shall be entitled to invoice the Customer following the end of each month in which the Specified Service is provided, or at other times agreed with the Customer.

3.4 Ansaback's Charges and any additional sums payable shall be paid by the Customer (together with any applicable Value Added Tax, and without any set-off or other deduction) by Direct Debit (in accordance with the Direct Debit Scheme) within 10 days of the date of Ansaback's invoice.

3.5 If payment is not made on the due date, Ansaback shall be entitled, without limiting any other rights it may have, to charge interest on the outstanding amount (both before and after any judgment) at the rate of 5% above the base rate from time to time of Barclays Bank plc from the due date until the outstanding amount is paid in full (including interest).

3.6 Save as otherwise provided in the Service Schedule Ansaback may vary Ansaback's Charges at any time or times during the term of the Contract by giving not less than 3 months' written notice to the Customer of each such variation which shall take effect on the expiry of such notice.

## 4 Rights in Input Material and Output Material

4.1 The property and any copyright or other intellectual property rights in:

4.1.1 any Input Material shall belong to the Customer.

4.1.2 any Output Material shall, unless otherwise agreed in writing between the Customer and Ansaback, belong to Ansaback, subject only to the right of the Customer to use the Output Material by way of a non-exclusive licence for the purposes of utilising the Specified Service.

4.2 Any Input Material or other information provided by the Customer which is so designated by the Customer and any Output Material shall be kept confidential by Ansaback, and all Output Material or other information provided by Ansaback which is so designated by Ansaback shall be kept confidential by the Customer; but the foregoing shall not apply to any Documents or other materials, data or other information which are public knowledge at the time when they are so provided by either party, and shall cease to apply if at any future time they become public knowledge through no fault of the other party.

4.3 The Customer warrants that any Input Material and its use by Ansaback for the purpose of providing the Specified Service will not infringe the copyright or other rights of any third party, and the Customer shall indemnify Ansaback against any loss, damages, costs, expenses or other claims arising from any such infringement.

4.4 Subject to clause 4.3, Ansaback warrants that any Output Material and its use by the Customer for the purposes of utilising the Specified Service will not infringe the copyright or other rights of any third party, and Ansaback shall indemnify the Customer against any loss, damages, costs, expenses or other claims arising from any such infringement.

## 5 Warranties and Liability

5.1 Ansaback warrants to the Customer that the Specified Service will be provided using reasonable care and skill and, as far as reasonably possible, in accordance with the Service Schedule and at the intervals and within the times referred to in the Service Schedule. Where Ansaback supplies in connection with the provision of the Specified Service any goods (including Output Material) supplied by a third party, Ansaback does not give any warranty, guarantee or other term as to their quality, fitness for purpose or otherwise, but shall, where possible, assign to the Customer the benefit of any warranty, guarantee or indemnity given by the person supplying the goods to Ansaback.

5.2 Ansaback shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any Input Material or instructions supplied by the Customer which are incomplete, incorrect, inaccurate, illegible, out of sequence or in the wrong form, or arising from their late arrival or non-arrival, or any other fault of the Customer.

5.3 Except in respect of death or personal injury caused by Ansaback's negligence, or as expressly provided in these Terms, Ansaback shall not be liable to the Customer by reason of any representation (unless fraudulent), or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Contract, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by the negligence of Ansaback, its servants or agents or otherwise) which arise out of or in connection with the provision of the Specified Service or their use by the Customer, and the entire liability of Ansaback under or in connection with the Contract shall not exceed the amount of Ansaback's Charges for the provision of the Specified Service, except as expressly provided in these Terms.

5.4 Ansaback shall not be liable to the Customer or be deemed to be in breach of the Contract by reason of any delay in performing, or any failure to perform, any of Ansaback's obligations in relation to the Specified Service, if the delay or failure was due to any cause beyond Ansaback's reasonable control.

## 6 Termination

6.1 Save as otherwise provided in the Service Schedule either party shall be entitled to terminate the Contract at any time by giving not less than 3 months' written notice to the other.

6.2 Either party may (without limiting any other remedy) at any time terminate the Contract by giving written notice to the other if the other commits any breach of these Terms and (if capable of remedy) fails to remedy the breach within 30 days after being required by written notice to do so, or if the other goes into liquidation, or (in the case of an individual or firm) becomes bankrupt, makes a voluntary arrangement with his or its creditors or has a receiver or administrator appointed.

## 7 Solicitation

The Customer recognises and agrees that considerable time and effort and money has been expended by Ansaback in the training and development of all its employees and the loss of any such employee resulting from solicitation of that employee by the Customer will cause substantial inconvenience and economic damage to Ansaback. The Customer undertakes and agrees that during the term of the Contract and for a period of twelve months following the expiry of the Contract it shall not directly or indirectly solicit away or attempt to solicit away any employee of Ansaback. Further during the term of the Contract the Customer shall not employ any person who has during a period of twelve months beforehand been an employee of Ansaback without obtaining the prior written agreement of Ansaback.

## 8 General

8.1 These Terms (together with the terms, if any, set out in the Service Schedule) constitute the entire agreement between the parties, supersede any previous agreement or understanding and may not be varied except in writing and signed by a director of each of the parties. All other terms and conditions, express or implied by statute or otherwise, are excluded to the fullest extent permitted by law.

8.2 Any notice required or permitted to be given by either party to the other under these Terms shall be in writing addressed to the other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

8.3 No failure or delay by either party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either party of any breach of the Contract by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.

8.4 If any provision of these Terms is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of these Terms and the remainder of the provision in question shall not be affected.

8.5 Both parties agree to comply with the provisions of the Data Protection Act 1998 and secondary legislation made under it in relation to the notification requirements and the collection, use, storage, processing, disclosure and transfer of personal data.

8.6 If any dispute arises in connection with the Contract the parties agree to attempt to resolve such dispute by negotiation. In the event that a negotiated settlement cannot be reached the parties agree to attempt to settle it by mediation in accordance with the model procedure of the Centre for Dispute Resolution. Neither party may begin Court proceedings or arbitration until the mediation process has been exhausted and a settlement has not been reached.

8.7 The parties agree that for the purposes of the Contracts (Rights of Third Parties) Act 1999 their obligations under the Contract are intended to benefit each other only and no person other than Ansaback and the Customer shall have any rights under the Contract.

8.8 English law shall apply to the Contract, and the parties agree to submit to the non-exclusive jurisdiction of the English courts