

## Maintenance Services Terms and Conditions

The parties' respective rights and responsibilities with respect to Maintenance Services are set forth in these Maintenance Services Terms and Conditions (the "Maintenance Terms"). These Maintenance Terms are in addition to the terms and conditions of the Agreement between IPC and Customer (the "Agreement"). All defined terms contained in these Maintenance Terms shall have the same meanings as defined in the Agreement unless the context requires otherwise. In the event of a conflict between any term or condition of the Agreement and a term in these Maintenance Terms, the term in these Maintenance Terms will govern. Any capitalized terms not defined herein have the meanings set forth in the Agreement.

### 1. SERVICE DESCRIPTION.

Maintenance Services constitute IPC's service offering that delivers reactive support in respect of IPC's Products provided under the Agreement.

### 2. DEFINITIONS.

**"Business Day"** means the standard hours of coverage at the local IPC Branch Office, which are 8:00 A.M. to 5:00 P.M. local time on weekdays that are not local bank holidays unless otherwise published in the IPC Customer Portal.

**"Excluded Equipment"** means any headsets, microphones, powerpacks, microphones and any other ancillary item to the desktop turret (but, for the avoidance of doubt, not including the desktop turret). The Warranty Period for Excluded Equipment the (90) day period beginning on the Delivery Date.

**"Critical Alerts Services"** means a monitoring service of the mission critical trading system (as more particularly described in the Documentation) and associated voice recording on a 24x7x365 basis. The service includes management of incidents to resolution and a daily alarm summary report.

**"Critical Defect"** means either: i) a defect that causes or is likely to cause a material impairment of core functionality elements of the IPC Infrastructure and result in a complete system outage; ii) a defect that causes or is likely to cause core system interactions to fail; or iii) a defect that causes or is likely to cause severe and persistent degradation of core functionality elements of the IPC Infrastructure for Users (e.g. the ability to call out, ability to receive incoming calls or ability to transfer a call).

**"Mainstream Software"** means all versions of the Software defined by IPC (acting reasonably) as Mainstream in IPC's then current Lifecycle Policy.

**"Maintenance Rate"** means the amount of Maintenance fees based upon the list price of the product for which the Maintenance is being provided.

**"Major Failure"** means a failure of the Software at an Installation Site to perform in accordance with the applicable Documentation that results in (a) the failure of 20% of the lines or 25% of the turrets; or (b) the complete failure of all voice recording capabilities at the Installation Site.

**"Minor Failure"** means all failures of the Software at an Installation Site other than a Major Failure.

**"Remote Access"** means IPC's ability to connect remotely to the Products through IPC's most current version of preferred remote connectivity as set out in IPC's then current Remote Access Policy.

**"RMA Procedure"** means the replace and return procedure set out in Section 7 of these Maintenance Terms.

### 3. SCOPE.

- 3.1 Included in the Annual Fee for Maintenance Services:  
(a) IPC Customer Portal and telephone trouble ticket logging on a 24 x 7 basis;

- (b) delivery and installation of Maintenance Releases (if any) via Remote Access during the Business Day (or outside of a Business Day to correct a Critical Defect);
  - (c) error correction for Software via Remote Access during a Business Day;
  - (d) Replacement of Equipment (other than Excluded Equipment) in accordance with the RMA Procedure; and
  - (e) Any dispatch that IPC, at its sole discretion, determines is critical to a Software incident resolution.
- 3.2 For payment of an additional charge at the applicable Labor Rate:
- (a) Any Customer requested dispatched on-site Maintenance Services (other than as set out above); and
  - (b) Any Remote Access support provided outside of the Business Day (other than as set out above).

In addition to the Labor Rates, where an engineer is dispatched to an Installation Site additional charges for transportation, lodging and meals may apply and the charge for each dispatch shall be a minimum of four (4) hours.

- 3.3 For payment of the applicable additional fees:
- (a) Critical Alert Services;
  - (b) Dedicated On-Site Technical Support;
  - (c) Any Functional Release (as defined below); and
  - (d) Section 3.4 if applicable.

- 3.4 Remote Access. In addition, in case IPC does not have Remote Access to any of the Products or an Installation Site, IPC shall be entitled to increase the Recurring Fee in accordance with its Remote Access Policy.

#### **4. RELEASES.**

- 4.1 Support for Software is available for Mainstream Software and as otherwise set out in the Lifecycle Policy. IPC, at its discretion during the Services Term, may correct a defect or error in the Software by providing a Release that does not contain the relevant defect or error (each a "Maintenance Release"). The Maintenance Release will be provided together with its installation free of charge during Business Days.
- 4.2 Customer may purchase (i) any additional Product (other than the defect or error correcting Release itself) required to use the Release or take advantage of additional functionality in the Release at the then-current Price; (ii) any Services required to install the Equipment or Software (not including the Release) which will be charged in accordance with the applicable Labor Rate; and (iii) any Release produced by IPC to change or enhance functional specifications which is made available to Customer at IPC's then current price (each a "Functional Release").

#### **5. MAINTENANCE RESPONSE TIMES.**

- 5.1 A Representative may report defects or faults in the Software to IPC. The Representative may contact IPC through the telephone numbers or other methods made known to the Customer by IPC from time to time. When contacting IPC, the Customer shall provide the information reasonably required by IPC to log the defect or fault and IPC shall assign a severity. IPC shall log the Customer's report and shall use its reasonable efforts to correct such defect or fault in the Products during Business Days.
- 5.2 IPC will begin remote investigation of the report via the Remote Network, or, in the case of on-demand, token base or other Customer controlled Remote Network access, request such access within the following time periods after Customer reports the defect or fault to IPC Branch Office:

Response Time		
During Business Day	Remote Access	No Remote Access
Major Failure	1 hour	3 hours
Minor Failure	2 hours	6 hours
<b>Outside of Business Day</b> (subject to charges at the applicable Labor Rate).		
Major Failure	2 hours	6 hours
Minor Failure	No SLA	No SLA

**6. CRITICAL ALERTS.** IPC, in connection with Critical Alerts Services, may provide and install such additional network monitoring and other equipment at one or more Installation Sites as IPC determines appropriate (the "*Critical Alerts Equipment*"). Title to the Critical Alerts Equipment will remain with IPC and will at no time pass to Customer. Customer may use the Critical Alerts Equipment solely in connection with the Critical Alerts Services and will not acquire any other rights in it or be allowed to alter, modify or repair the Critical Alerts Equipment without IPC's prior written permission. On the termination or expiration of the Service Term, Customer will grant IPC the opportunity during normal business hours to enter each Installation Site and recover the Critical Alerts Equipment or arrange for the return of the Critical Alerts Equipment to IPC at Customer's sole cost and expense.

**7. EQUIPMENT SUPPORT AND RMA PROCEDURE.**

- 7.1 A Representative may report defects in faults in any Equipment covered by the Maintenance Services or a Warranty Period. IPC will make arrangements with Customer for IPC to ship replacement Equipment to the Customer's Installation Site.
- 7.2 Customer will provide all activities associated with installation of the replacement Equipment and decommissioning and returning the non-functioning Equipment to IPC. Customer shall return all defective Equipment to IPC at Customer's cost. IPC shall be entitled to invoice Customer in accordance with its then current standard price book in the event IPC does not receive the defective Equipment within twenty (20) business days from Customer's receipt of the replacement Equipment.
- 7.3 If Customer needs IPC support (including remote support) to assist with the initialization of the Equipment provided through the replacement process it may contact IPC and make such arrangements (additional fees may apply).

**8. LIMITATIONS**

- 8.1 Notwithstanding any other provision of the Agreement (including these Maintenance Terms), Maintenance Services and warranty obligations do not cover the items listed in this Section. If IPC provides any of the following, IPC will be entitled to charge the Customer in accordance with the applicable Labor Rate.
- 8.2 Maintenance Services for any Release of the Software other than IPC's then-current Release and the 2 immediately preceding Releases of such Software.
- 8.3 Maintenance Services necessitated by acts and omissions of Customer or third parties not engaged by IPC in connection with the provision of the Products and/or Maintenance Services including, without limitation:
  - (a) failure to create and preserve reasonable backup copies of its data and other business information and records, perform accuracy checks on a routine basis, and take such other precautions as may reasonably be required to detect and guard against possible

- malfunctions, loss of data, or unauthorized access to the Software;
- (b) improper storage, operation or installation of the Products;
  - (c) any modification, alteration or addition to the Products;
  - (d) use of the Products in conjunction with any other equipment, product, software or service not supplied by IPC;
  - (e) accidental damage, hazard, natural disaster, failure or fluctuation of electrical power or environmental conditions, or electrical or other work external to the Products, or other harm to the Products aside from normal wear and tear; or
  - (f) failure to install an IPC-provided patch to fix a known defect or failure in the Software within 90 days after IPC makes the patch available to Customer.
- 8.4 Services necessitated by any virus, trojan horse or worm or unauthorized access to the Products.
- 8.5 Services relating to Customer's use of the Products other than in accordance with normal operating procedures as described in the Documentation or as otherwise notified in writing to Customer by IPC.
- 8.6 Maintenance Services necessitated by or relating to:
- (a) any malfunction of any operating system or other software, hardware, telecommunications systems or other aspect of the Products' operating environment not proprietary to IPC; or
  - (b) Customer's modification of the operating environment for the Products, (including without limitation the implementation of vendor-supplied error corrections, patches, updates upgrades or enhancements to the Customer's operating system or other third-party software even if IPC makes them available for download by Customer);or
  - (c) Excluded Equipment and any Equipment that has been declared obsolete in accordance with the then current Product Lifecycle Policy.
- 8.7 Monitoring, troubleshooting or correcting any problems on Customer's network, or Services necessitated directly or indirectly as a result of Customer's use or operation of its network.
- 8.8 Service or replacement of Equipment due to wear or cosmetic degradation.

## **9. PRODUCT INVENTORY REVIEW.**

- 9.1 This Section does not apply to Unigy Enterprise Subscription Services.
- 9.2 IPC will adjust the Recurring Fee prior to the beginning of each Service Year to take into consideration any change in the number of units of Products under maintenance:
- (a) Approximately ninety (90) days prior to the beginning of each Service Year, IPC will send to Customer a statement setting out changes in the number of units of Products at each Installation Site together with the adjusted Recurring Fee ("Inventory Statement"). Customer will have fifteen (15) calendar days from the date of Customer's receipt of the Product Inventory Statement to dispute in good faith the amount or type of Products at the Installation Site set forth in the Inventory Statement;
  - (b) In the event Customer does not so dispute, Customer shall be deemed to have accepted the Inventory Statement and Customer shall pay the associated Recurring Fee in accordance with the terms of the Agreement; and
  - (c) In the event Customer disputes the amount or type of Products at any or all Installation Sites, Customer and IPC will use all commercially reasonable efforts over the next fifteen (15) calendar days to resolve the disparities. Customer will permit IPC access to any Installation Sites in dispute to inspect and confirm the inventory of Products ("*Site Survey*"). IPC shall provide Customer with the results of the Site

Survey(s) and, if applicable, a revised Inventory Statement. At the conclusion of the Site Survey, if applicable, IPC will issue revised Inventory Statements consistent with the results of the Site Survey and issue an invoice for the adjusted Recurring Fee, which shall then become due and payable in accordance with the terms of the Agreement.

- 9.3 In the event that Customer chooses to reduce the units of Software at an Installation Site, IPC will present to the Customer options to reduce the associated Maintenance Services via its Maintenance Adjustment process (including dormancy and termination options). Maintenance Services associated with any voice recording Software may only be reduced if the associated User Software license is irrevocably terminated.
- 9.4 Unigy User Software licenses that are either made dormant or terminated will be removed from a Customer's inventory and will be unavailable for Customer use. User Software licenses made dormant will have a reduced Maintenance fee and will be available for Customer reinstatement by raising a MAC. Licenses that are terminated will be irrevocably deleted. IPC will charge Customer for any associated Professional Services on a time and materials basis in accordance with the Labor Rates.

#### **10. RELATED PROVISIONS.**

- 10.1 IPC does not permit customers to exclude Products from Maintenance Services based on function, purpose, location or any other factor aside from destruction or disposal.
- 10.2 If Customer fails to purchase Maintenance Services or, having purchased such Maintenance Service, allows it to lapse, Customer may reinstate Maintenance Services in accordance with the then-current IPC reinstatement policy.
- 10.3 Customer must ensure that any service work that it performs (or contracts another entity besides IPC to perform) does not impact the IPC elements running on the Customer's VM instances and that it proactively notifies IPC of any work on said infrastructure. Remediation work that is required from IPC as a result of customer actions is not covered under maintenance and shall be billed in accordance with the applicable Labor Rate.
- 10.4 Customer is responsible for adhering to IPC's "Day Two Best Practices" (document which includes various obligations that Customer must follow in order to maintain proper system operation (such as monitoring alarms, clearing alarms, etc.)).
- 10.5 Notwithstanding anything to the contrary in the Agreement, IPC may delegate or subcontract any of its obligations hereunder to a third party without the prior written consent of Customer. In the event such delegation or subcontracting occurs, the third party to which such rights or obligations are delegated or subcontracted (hereinafter, the "IPC Authorized Subcontractor") shall be bound by the terms and conditions of the Agreement applicable to IPC and IPC shall not be released from its responsibility for its obligations under the Agreement, and any failure by such third party to comply with the terms hereof shall constitute a breach of the Agreement by IPC. IPC shall also be solely responsible for all payments due to such IPC Authorized Subcontractor.

**11. REVISION RIGHT.** IPC may, in its sole discretion, revise these Maintenance Terms from time to time provided that IPC's commitments are not materially reduced.

**12. MAINTENANCE RENEWALS.** Maintenance Services will automatically renew for consecutive Maintenance Years (each, a "Renewal Maintenance Term" and together with the Initial Maintenance Term, the "Maintenance Term") unless either party, at least ninety (90) days prior to the end of the then-current Maintenance Year, gives the other party notice terminating Maintenance Services effective at the end of the then-current Maintenance Term. Notwithstanding anything to the contrary in the Agreement, IPC may increase the fees for the Renewal Maintenance Term by the greater of 5% or the percentage change in US CPI from the prior Maintenance Term.