

Support and Maintenance Agreement

The following terms and conditions in this Support and Maintenance Agreement (the “Agreement”) shall apply to you as a user (the “Client”) of the support and maintenance services offered by Alert Communications Limited, a company registered under the laws of Malta with company registration number C23487 and having its registered office situated at 258 Cannon Road, Santa Venera, SVR 9034 Malta (“Alert Communications”).

NOW THEREFORE, it is agreed as follows:

1. Nature

- 1.1 The Client agrees to use the support and maintenance services according to the following terms and conditions contained herein, which must be accepted by the Client prior to the service commencing. These terms and conditions are always available on our website, www.alert.com.mt for review, including any updates of the terms and conditions.
- 1.2 It is in Alert Communications’ sole discretion, to transfer or otherwise assign its rights and obligations under this Agreement, provided that such shall be on the same terms, or on terms that are no less advantageous to the Client.
- 1.3 The Client undertakes to print, sign each page and send a signed original of this Agreement to Alert Communications, attached with a copy of the proposal with a signature next to those items that are being commissioned.
- 1.4 Further to Clause 1.3 above, if the Client changes any clause in this Agreement upon printing and signing without Alert Communication’s prior written consent, then any such change will be deemed to be null and void.

2. Definition of Services

- 2.1 Alert Communications will establish and maintain an organisation to provide support for the software to the Client, in accordance with the herewith attached Proposal, which is an integral part of this Agreement.
- 2.2 For the avoidance of all doubt, services shall not include the diagnosis and rectification of any fault arising from:
 - (i) The modification of the software or its merger (in whole or in part) with any other software;
 - (ii) Unless otherwise agreed by Alert Communications in writing the use of the software on equipment other than that in the Alert Data Centre;

- (iii) The failure by the Client to implement recommendations in respect of the solutions and faults previously advised by Alert Communications;
- (iv) Any repair, adjustment, alteration or modification of the software by any person other than Alert Communications without Alert Communications` prior written consent;
- (v) Any breach of obligations under this Agreement;
- (vi) The use of the software for a purpose for which it was not designed; or
- (vii) Specialist advice on the application of the software or specific engineering applications.

3. Warranty

- 3.1 Alert Communications offers a warranty period of three (3) months on software developed for Clients, which commences once the software goes live.
- 3.2 During warranty, Alert Communications undertakes to fix or patch, rectify or remedy (as the case may be) any reported and reproducible errors in the software, subject to the conditions contained herein.
- 3.3 Once the warranty expires the Client can either opt to sign an Agreement with Alert Communications or else be charged separately every time support is required.
- 3.4 For the avoidance of any doubt, the Service Levels defined below apply only in the case of clients who have a Support and Maintenance plan, which covers phone/email support and general maintenance.

4. Service Levels

- 4.1 This Agreement commits Alert Communications to the following Service Levels depending on the severity of the problem and on the Client communicating the required information using the following appropriate communication method:

Priority	Description	Response Time (during office hours)	Communication Type
Alert	The System is <u>down</u> causing critical impact to business operations if service is not restored quickly. No work-around is available.	2	Telephone, followed up by email
High	The System is severely <u>degraded</u> impacting significant aspects of business operations. No work-around is available.	4	Telephone, followed up by email
Medium	Problem which causes <u>inconvenience</u> or degraded performance that must be rectified soon. Many people affected but work-around in place. Initial problem still needs to be resolved.	8	Email
Low	Problem situation other than from above, mainly cosmetic.	16	Email

4.2 The Response Times indicated above is solely applicable during office hours. (Office Hours are defined as 8.30 AM through 5:00 PM local time, excluding holidays and weekends) hereinafter referred to as “Office Hours”).

5. Support

5.1 The support to be provided by Alert Communications to the Client shall include:

- (i) diagnosis of problems or performance deficiencies of the software; and
- (ii) a resolution of the problem or performance deficiencies of the software.

5.2 This Agreement only covers support and maintenance during Office Hours.

5.3 In the instance that the Client requires 24/7 support additional charges apply.

6. Contact Person

6.1 The Client will nominate one technical contact within the organisation who will be the main point of contact between the Client and Alert Communications.

7. Action to be taken by Alert Communications

7.1 The action to be taken by Alert Communications is to be as follows:

- (i) Within the specified lead-time, Alert Communications verifies the problem and checks if additional information is needed to start investigating the problem. If additional information is needed, or in any case on the client's request, a person with appropriate skills and system knowledge at Alert Communications will contact the client to collect information about the problem.
- (ii) Alert Communications will start evaluation and correction work.
- (iii) Depending upon the severity of the problem, Alert Communications will provide a Workaround, a Correction and/or a Correction description.
- (iv) Upon reception of the corrective measure, Alert Communications shall verify that a satisfactory resolution of the problem is reached and will close the problem report.

8. Telephone and E-Mail Support

8.1 Alert Communications will provide telephone and/or e-mail software support during Office Hours as per the communication types defined in the table in clause 4.1

8.2 When reporting a software issue by telephone, the Client must indicate the exact problem description and a classification as per the priority levels defined in the table in clause 4.1.

8.3 The report will be registered and an acknowledgement sent back by e-mail to Client by Alert Communications, including the priority level as defined by Alert Communications.

8.4 Any problem report shall remain in open status, until declared closed by Alert Communications.

9. On-site Support

9.1 Alert Communications will endeavour to correct any problems via remote access and telephone methods before going on site.

9.2 For any on-site support and maintenance, the Client will provide to the personnel providing the services:

- (i) access to the location, product, attachment, documentation, software, diagnostics or other equipment necessary to provide service;

- (ii) adequate and safe working and storage space and facilities as reasonably needed by personnel providing services, including, without limitation, adequate heat, light, ventilation and electrical current and outlets.
 - (iii) If during an on-site support session, Alert Communications personnel indicate that a problem lies with client or third party items, the client will be responsible for follow-up and any related charges. Alert Communications reserves the right to bill for such a session,
 - (iv) It is assumed that prior to on-site support sessions, the system is running on a healthy environment. Should the Client require consultancy about this there will be separate charges.
 - (v) If as part of this service you are required to install any software you agree to install and keep this software. If Client refuses to install this software this may mean that Alert Communications will have to offer a reduced level of service or withdraw the service completely.
 - (vi) Visits are usually made within four (4) working hours of agreeing to Client's request if the problem is alert priority as defined in Clause 4.1 above.
 - (vii) Timescales for non-alert priority visits are agreed at time of request.
 - (viii) Client must give access at the time of the agreed visit. Failure to do so may require in us charging for the missed appointment.
- 9.3 If applicable Alert Communications may notify Client that the problem will not be resolved and the reason for this decision.

10. Payments

- 10.1 Any services under this Agreement shall be compensated for by means of an annual flat rate, in accordance with the herewith attached Proposal.
- 10.2 The said fees are due for payment annually in advance upon invoicing by Alert Communications.
- 10.3 Further to the above provisions, if it is determined that there is no problem with the software products, Alert Communications will so inform the Client and in such case Alert Communications reserves the right to charge the Client a reasonable fee.
- 10.4 In addition, in cases where the nature of the support needed is related to a function of the system which bridges with other third party software or is located at Client or third party premises, and the Client requests Alert Communications to vet the situation, Alert Communications reserves the right that should it result that the problem is not associated with software of Alert Communications, to bill the client in full for all the time taken to assess the

situation, possibly provide an interim solution and liaising with client and /or third party.

10.5 Any additional charges incurred in relation to the above will be billed monthly in arrears.

11. Securing of Services

11.1 Alert Communications will employ its best efforts to rectify the Client's problem. Alert Communications cannot be held responsible or liable for errors that cannot be rectified owing to the complex nature of hardware and software applications, networks and specific configurations with the Client.

11.2 To guarantee the best level of efficiency, the Client undertakes to describe the problems in as detailed a manner as possible. It is the Client's responsibility to ensure that the appropriate person from the Client's end is liaising with the Alert Communications team. Similarly it is the obligation of the client to provide Alert Communications with access credentials when required.

11.3 The response times defined in clause 4.1 do not include time spent awaiting feedback from the client.

11.4 Further to Clause 11.2 above, the Client agrees to:

- a) Give Alert Communications' engineers or approved contractor remote access to their computer systems;
- b) Install or allow Alert Communications to install approved ant-virus protection to all systems (subject to any software licence fees);
- c) Have technical details regarding their systems recorded on Alert Communications databases;
- d) Allow Alert Communications to create any administration accounts that may be required.

12. Liability

12.1 Alert Communications shall in no manner be responsible or liable for any loss or damages suffered by the Client save for any instances arising solely from direct fault of Alert Communications.

12.2 Further to Clause 12.1 above, the liability of Alert Communications shall in such instance be limited to the total fees paid by the Client over the previous twelve (12) months for this service.

THE CLIENT'S ATTENTION IS IN PARTICULAR DRAWN TO THIS CLAUSE 12 HERE ABOVE

13. Indemnity

- 13.1 The Client shall indemnify and hold harmless Alert Communications against any loss or damage (including costs) that may be awarded or agreed to be paid to any person in respect of a claim or action arising: (a) in respect of any breach of this Agreement; or (b) in respect of the Client's violation of any law or the rights of a third party.
- 13.2 The Client additionally undertakes to fully compensate Alert Communications in full for any losses, damages or costs, including all reasonable legal fees incurred, arising: (a) in respect of any breach of this Agreement; or (b) in respect of the Client's violation of any law or the rights of a third party.

THE CLIENT'S ATTENTION IS IN PARTICULAR DRAWN TO THIS CLAUSE 13 HERE ABOVE

14. Performance of the Agreement

- 14.1 This Agreement will start to run from the date of this Agreement, provided that the warranty as defined by this Agreement would have expired.
- 14.2 Subject to Clause 14.1, in the instance that the software is still under warranty, then this Agreement comes into effect as soon as the warranty on the software expires (three months after the software goes live) and will be in place for a minimum period of one year.
- 14.3 This Agreement will be for a period of one (1) year and shall be automatically renewed for additional one year terms, unless terminated by the Client serving thirty (30) days notice in writing to Alert Communications prior to the end of the then running term.
- 14.4 Should the Client decide not renew the Agreement, he will be required to pay the standard hourly rate for any maintenance that might be required over time. The minimum charge is for one (1) hr. In such a case, Client is entitled to next business day response on mission critical workstation issues.

15. Termination for Good Cause

- 15.1 This Agreement can be terminated by Alert Communications for good cause if the Client has committed a severe breach of this Agreement and the consequences of such breach have not been remedied within thirty (30) days of the Client having received notice in writing.

16. General

- 16.1 This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective legal successors but shall not otherwise be assignable by either party without the written consent of the other which consent shall not be unreasonably withheld.
- 16.2 If any provision of this Agreement is agreed by the parties to be illegal, void or unenforceable under any law applicable hereto or if any court of competent jurisdiction in a final decision so determines, this Agreement shall continue in force save that such provision shall be deemed to be excised herefrom, with effect from the date of such agreement or decision or such earlier date as the parties may hereby agree.
- 16.3 The headings in this Agreement are for convenience only and shall not have any legal or interpretative effect.

17. Governing Law and Disputes

- 17.1 The construction, validity and performance of this Agreement shall be governed in all respects by Maltese law.
- 17.2 Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the rules of the Malta Arbitration Centre as at present in force. The appointing authority and administrator shall be the Malta Arbitration Centre. The number of arbitrators shall be one. The place of arbitration shall be Malta. The language to be used in the arbitral proceedings shall be English. Arbitration in terms of this Clause shall constitute the sole and exclusive remedy for the resolution of disputes, controversies of claims arising out of or relating to this agreement, or the breach, termination or invalidity thereof.

I HEREBY CONFIRM THAT I HAVE READ AND UNDERSTOOD THESE TERMS AND CONDITIONS AND ACCORDINGLY I AM FULLY AWARE OF MY OBLIGATIONS AND RESPONSIBILITIES AS A CLIENT ARISING HEREFROM, INCLUDING PROVISIONS ON LIABILITY AND INDEMNITY WHICH HAVE SPECIFICALLY BEEN BROUGHT TO MY ATTENTION.

I FURTHERMORE WARRANT TO BE DULY AUTHORISED TO ACCEPT, SIGN AND REPRESENT THE CLIENT ON THIS AGREEMENT AND CONFIRM ACCEPTANCE OF THE TERMS AND CONDITIONS SET OUT ABOVE.

Date:

Client Company Name:

Client Company Registration:

Represented by:

Position:

Signature: