

Intelitek Support Services Agreement



This Support Services Agreement (“Agreement”) is made as of _____, between _____ (the “Effective Date”) by and Intelitek, Inc., and _____ (“Customer”).

Customer Address:

THE TERMS AND CONDITIONS BELOW ARE PART OF THIS AGREEMENT.

Customer Representative

Authorized Signature

Printed Name/ Title

INTELITEK, INC.

Ido Yerushalmi

Authorized Signature

Ido Yerushalmi

Printed Name/ Title

1. COVERAGE

Intelitek will provide Customer with Support Services for Intelitek’s products that were sold to customer by Intelitek including software and hardware. under the terms of this Agreement.

2. SUPPORT

Support services (the “Support Services”) is of unlimited telephone support during the following hours: from 9:00 a.m. to 5:00 p.m. EST Monday through Friday (excluding U.S. national holidays and Intelitek specific holidays).

3. RESOLUTION

Intelitek will use commercially reasonable efforts to resolve support issues, but does not guarantee that it will be able to resolve an issue within a specific time period or that any issue will be resolved.

4. TERM AND TERMINATION

Unless a shorter original term is agreed to in an order, Support Services shall be provided for one (1) year from the Effective Date and shall be extended each year for an additional one (1) year term unless terminated by either party as provided herein.

Either party may terminate the Support Services provisions at the end of the original term or at the end of any renewal term by giving the other party written notice at least thirty (30) days prior to the end of any such term.

In the event Customer fails to make payment pursuant to the Section below entitled “Charges and Payment,” or in the event Customer materially breaches the Support Services provisions and such breach has not been cured within thirty (30) days of receipt of notice of breach, Intelitek may suspend or cancel Support Services.

5. CHARGES AND PAYMENT

Customer shall pay Intelitek the applicable Support Services fees listed in the order. Support Services are billed on an annual basis, payable in advance. Customer shall be responsible for all taxes associated with Support Services.

6. OPTIONAL SUPPORT SERVICES

If a Customer issue cannot be resolved through the Support Services, Intelitek, in its sole discretion, may provide Optional Support Services to Customer on Customer’s request, as follows:

A. Software and content. Provision of software fixes/patches and upgrades and/or any other updates, if necessary, per Intelitek’s standard price list then in effect.

B. Hardware. The Customer will be requested to send the item to Intelitek's Warehouse for inspection and, if relevant, repair. All the costs incurred including two-way shipping and repair, will be at the customer's expense. Such repair costs shall include: (i) Labor at the rate of \$125 per hour with a minimum charge for two (2) hours of technician services and (ii) Parts per Intelitek's standard price list then in effect.

The terms and conditions of this Agreement govern the provision of any Optional Support Services delivered by Provider to Customer.

7. DISCLAIMER; LIABILITY LIMITATIONS

SOFTWARE AND HARDWARE WARRANTY DISCLAIMER: ALL SOFTWARE AND MATERIALS RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN THE APPLICABLE SOFTWARE LICENSE AGREEMENT. ALL HARDWARE AND MATERIALS RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN THE APPLICABLE HARDWARE PURCHASE AGREEMENT. NO WARRANTY IS MADE UNDER THIS AGREEMENT WITH RESPECT TO THE SOFTWARE OR THE HARDWARE.

ALL SUPPORT SERVICES ARE PROVIDED "AS IS" AND INTELITEK MAKES NO WARRANTIES HEREUNDER, AND EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ALL WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, USE, ACCURACY, COMPLETENESS, AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, AND USAGE OF TRADE, OR THEIR EQUIVALENTS UNDER THE LAWS OF ANY JURISDICTION. INTELITEK DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE SUPPORT SERVICES, THAT THE SUPPORT SERVICES WILL BE FREE FROM ERROR, OR THAT ALL ERRORS WILL BE CORRECTED.

IN NO EVENT SHALL INTELITEK BE LIABLE FOR SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST PROFITS OR LOST DATA) OR FOR ANY AMOUNT EXCEEDING THE FEES PAYABLE TO INTELITEK UNDER THIS AGREEMENT ATTRIBUTABLE TO THE SUPPORT SERVICES PROVIDED DURING THE PERIOD OF THREE (3) MONTHS PRIOR TO A CAUSE OF ACTION ARISING.

8. MISCELLANEOUS

Neither party shall be liable for any delay or failure to perform under this Agreement if caused by conditions beyond its reasonable control (excluding payment of fees due hereunder). This Agreement is governed by the laws of the State of New Hampshire without regard to principles of conflicts of laws. The parties agree that the United Nations

Convention on Agreements for the International Sale of Goods shall not apply to this Agreement. Additionally, application of the Uniform Computer Information Transaction Act (UCITA) is excluded from this Agreement. The parties agree that jurisdiction and venue for any matter arising out of or pertaining to this Agreement shall be proper only in the state and federal courts located in New Hampshire. IN NO EVENT SHALL ANY CLAIM, ACTION OR PROCEEDING RELATED IN ANY WAY TO THIS AGREEMENT BE INSTITUTED MORE THAN ONE (1) YEAR AFTER THE CAUSE OF ACTION AROSE. This Agreement may not be assigned or transferred by Customer without Intelitek's prior written consent. Intelitek is permitted to assign its rights under this Agreement. A waiver by either party of any provision of this Agreement shall not be construed as a waiver of such provision. Each party shall retain the right to enforce any such provision in any subsequent breach. If any provision of this Agreement is held to be invalid or unenforceable, the remainder of the provisions shall remain in full force and effect. This Agreement constitutes the entire, complete and exclusive statement of the agreement between the parties pertaining to the subject matter hereof, and supersedes and cancels all prior oral and written agreements between the parties with respect to this subject matter. This Agreement may not be changed in any way except by an instrument in writing signed by both parties. Any provisions of this Agreement that, in order to fulfill the purposes of such provisions, need to survive the termination or expiration of this Agreement, shall be deemed to survive for as long as necessary to fulfill such purposes.