

Terms & Conditions for the provision of Support & Maintenance

1. APPLICATION OF TERMS

1.1 V7 Technology Ltd. (V7) agrees to provide maintenance upon the terms and subject to the conditions of this Document for any of the Products purchased by the Customer which are listed in the schedule hereto attached as the same may be amended by agreement from time to time ("the Products").

1.2 This Document supersedes any arrangements, statements, representations or negotiations made or existing between the customer and V7 and constitutes the entire understanding between the parties relating to the maintenance of the Products. Except as otherwise provided herein, no addition, amendment or modification to this Arrangement shall be effective unless it is in writing and signed or accepted by V7.

2. COMMENCEMENT AND DURATION

2.1 The provision of the service shall continue for a minimum of 12 months, and is charged annually in advance on a non-refundable basis, even if the service is cancelled. V7 require a minimum cancellation notice of 90 days before annual renewal, and reserve the right to charge an additional charge pro-rata if cancellation notice is received less than 90 days before the annual renewal.

3. ACCESS TO THE PRODUCTS

3.1 V7 shall be given full and free access to the Products in order to carry out its obligations under these Terms & Conditions. Failure by the Customer to authorise such full and free access to the Products shall relieve V7 of its obligations hereunder. This is usually effected by remote means using a single Internet port.

3.2 V7 shall take reasonable care to ensure that in the provision of the maintenance services, it does not unreasonably interfere with the operations of the Customer's site.

3.3 V7 shall be responsible at its own risk and expense for the delivery to, and unloading at the Customer's site of, all plant, equipment and things of all kinds necessary for the provision of the maintenance services and shall remove them at the end of each visit and leave the site in the same condition as it was before the visit.

3.4 V7 may charge any travel and subsistence expenses incurred in gaining access to the products. Travel & Expense charges under this clause will be billed at the end of the month in which they were incurred, and shall be paid within 14 days.

4. ON-SITE ALTERATIONS AND ADDITIONS

4.1 On-site alterations and additions to or in connection with any of the Products may only be carried out by V7 unless there is prior written agreement between the parties. V7 shall not accept any responsibility for any alterations or additions carried out in contravention of this Clause nor any effect such alterations or additions may have on the Products.

4.2 Notwithstanding the foregoing generality, V7 may, at no additional cost to the Customer, undertake modifications that will improve operation of the Products, ease future maintenance work, eliminate or diminish risk of accidents and for such purposes the Customer shall allow V7 access to the Products.

5, CUSTOMER'S RESPONSIBILITIES

5.1 The Customer shall be responsible for ensuring that the necessary operational and environmental conditions are maintained for the Products. Specifically, V7 shall have reasonable access to the Products via remote access over the Internet – usually by means of a single Internet port. In the event that the cost to V7 of providing the maintenance services is increased as a result of the Customer's failure to comply with the above requirements, the additional costs thereby reasonably incurred shall be paid by the Customer to V7.

5.2 Neither the Customer's personnel nor any third party employed by the Customer shall provide any part of the maintenance services on any of the Products except with the prior agreement of V7.

5.3 At V7's request, the Customer shall make available, free of charge, to V7's authorised personnel such operational and/or systems programming staff, data and programmes as may be required to enable tests and other works to be carried out.

5.4 The Customer shall provide such supplies of electricity, water, and any other services for the provision of the maintenance services as may from time to time be reasonably requested by V7 but V7 shall be responsible for providing any apparatus necessary for utilising such services and shall be responsible for any injury to persons (including death) or loss or damage to property caused by its negligent use thereof.

5.5 Unless otherwise agreed the Customer shall provide free of charge to V7 suitable working facilities and storage space for the stock of replacement parts required by V7 to provide the maintenance services.

5.6 The Customer shall be responsible for ensuring the health and safety of V7 personnel whilst they are on the Customer's site including but not limited to ensuring that V7 personnel are informed of all safety rules and regulations applying to the customer's site and will ensure that an employee or agent of the Customer is in the same building on the site throughout the period of attendance of such authorised V7 personnel.

6. CHARGES

6.1 V7 will provide maintenance services as defined in Clauses 8.1, and 8.2

6.2 V7 may make an application to increase its software maintenance charge annually by giving not less than 30 days written notice to expire on or after the anniversary of the Completion of Installation. The Customer will review the application, and if approved, such increase will become effective upon expiry of the period of notice.

6.3 V7 reserves the right to charge interest on any sums due to V7 and not paid on the due date at the rate of 2% per annum above the base lending rate of Lloyds TSB Bank Plc from time to time compounded monthly on all amounts overdue until payment thereof such interest to run from day to day and to accrue after as well as before any judgement.

6.5 The charges for the maintenance services shall be payable to V7 by the Customer annually in advance.

6.6 If repairs or replacements are required or additional costs are incurred by V7 as a result of any default or negligence of the Customer or any third party other than a sub-contractor of V7, V7 shall have the right to make a reasonable additional charge in respect thereof.

7. EXTENSIONS OF COVER

7.1 Any extension of the Principal Period of Maintenance and/or a provision of maintenance services based on other than as stated in 8.1 shall be subject to same terms & conditions as this document.

7.2 V7 shall charge for services requested by the Customer which are not specifically covered by this Maintenance Agreement, and for which a separate price has not been agreed with V7 pursuant to 7.1, at V7's then current rates for Time and Materials working.

7.3 Without prejudice to any other rights which it may have under this Agreement V7 may at its discretion cease to provide the maintenance services pending payment of any overdue sum from the Customer.

8.0 MAINTENANCE SERVICES

This Agreement includes the provision of the following maintenance services subject to the exclusions in Clause 9 below :-

8.1 V7 will provide maintenance services as second line support behind the Customer's own Technical Support Representative, who shall act as first line support for any of their "internal" customers, where it is clearly identified that the problem is with the products specifically, and not relating to the Customer's own network or desktop arrangements.

Support shall be primarily carried out using remote access to the Products.

8.2 V7 guarantees a response within four working hours to the Customer, where a working day is defined as between the hours of 0930 and 1730 (UK Time) Monday to Friday excluding Public Holidays ("the Principal Period of Maintenance").

The term "response" is defined in 8.4. Notification may be via telephone, fax or written notifications from the Customer during the Principal Period of Maintenance or any agreed extension thereof concerning the functioning of the Products.

8.3 Should it be agreed by the Customer and V7 that support needs to be carried out on-site and a suitable time is also agreed between both parties, then this shall be provided free of charge, excluding reasonable travel and subsistence expenses incurred in gaining access to the products. This charge, under this clause, will be billed at the end of the month in which they were incurred, and shall be paid within 14 days.

8.4 The term "response" is defined as confirmation of the acknowledgement of a fault by an assigned engineer, (usually by telephone) and the commencement of the process of identifying and rectifying the problem within the shortest possible time. All reasonable efforts to correct the fault will be made as quickly as possible, but the term "response" does not imply or guarantee that the problem will be fixed within any specific period of time.

8.5 The logging of telephone, faxed or written notifications from the Customer of faults. The response time for the purposes of the maintenance services will start from the time (during the Principal Period of Maintenance and any agreed extension thereof) that V7 is notified by the Customer of such fault, and will run during the Principal Period of Maintenance and any extended period of Maintenance.

8.6 V7 will with the Customer's co-operation make all reasonable endeavours to identify the nature of the reported failure within the response time by a combination of the following actions :-

8.6.1 requesting the Customer to run specific diagnostic test routines; and/or

8.6.2 running diagnostic test routines via a remote diagnostic facility if available; and/or

8.6.3 sending an engineer to the Customer's site to conduct diagnostic tests.

8.7 In any event V7 will continue to investigate the reported failure until the cause is identified.

8.8 If necessary following the actions referred to in 8.6 and 8.7 above and subject to the provisions of Clause 9, V7 will repair or replace any components of the Products which are found to be faulty.

8.9 From time to time but usually once every six months, at the Customer's discretion and convenience, V7 will send an engineer to the Customer's site to conduct preventative maintenance which shall include but not be limited to :

8.9.1 check the system's satisfactory operation.

8.9.2 bringing any relevant components up to the latest revision level.

8.10 V7 may charge any travel and subsistence expenses incurred in gaining access to the products under section 8. Travel & Expense charges under this section will be billed at the end of the month in which they were incurred, and shall be paid within 14 days.

9. MAINTENANCE NOT INCLUDED AND WHICH SHALL BE CHARGED FOR

The maintenance services provided by V7 under this Agreement do not include the following:

- 9.1 Maintenance of accessories, attachments, software, machines or other devices not supplied by V7, except by prior written agreement.
- 9.2 Repair of faults arising from :-
 - 9.2.1 transportation or relocation of the Products not performed by V7 or its agents;
 - 9.2.2 abnormal failure of electrical power, air conditioning or humidity control;
 - 9.2.3 changes, modifications, alterations or additions performed after Completion of Installation otherwise than by V7;
 - 9.2.4 accidents such as fire, lightning or floods.
- 9.3 Attendance to faults caused by operating the Products outside design specifications or otherwise than in accordance with documentation manuals supplied with the Products or other misuse of the Products.
- 9.4 Repair of any malfunction due to radiation in the environment of the Products.
- 9.5 Diagnosis and/or rectification of problems arising from the operating environment.
- 9.6 Replacement of media and consumable items.

If maintenance service is required in V7's reasonable opinion as a result of any of the causes stated above, such repairs will only be made upon the Customer undertaking to pay for such repairs as V7's then prevailing rates for Time and Materials working.

10. CONSUMABLE SUPPLIES

The Customer may procure consumable supplies to be used with the Products from such sources other than V7 as the Customer may deem appropriate and provided that such consumable supplies are compatible with the Products, such procurement from a source other than V7 shall not invalidate any rights of the Customer under this Agreement.

11. REPLACEMENT PARTS

- 11.1 Any replacement parts provided by V7 as part of the maintenance services shall be either new or of substantially equal quality and such replacement parts shall become the property of the Customer. Parts removed shall become the property of V7 who shall, unless otherwise agreed by the Customer, erase or destroy any customer Data contained thereon.

11.2 V7 may, in providing the maintenance services, at its own expense, modify the Products or replace any part with a part not complying with the original specification, provided that such modification or replacement will not degrade the performance of the Products.

12. TERMINATION OR EXPIRY

12.1 Notwithstanding any other provision herein contained this Agreement may be terminated forthwith by either party by notice in writing from the party not at fault if any of the following events shall occur viz. :-

12.1.1 If the other party shall present a petition or have a petition presented by a creditor for its winding up or shall enter into any liquidation (otherwise than for the purpose of reconstruction or amalgamation), shall call any meeting of its creditors, shall have an administrator or an administrative or other receiver of all or any of its undertaking or assets appointed, or shall be deemed to be unable to pay its debts, or shall cease to carry on business.

12.1.2 If the other party shall at any time commit a material breach of this Maintenance Agreement and shall fail to remedy such breach in 30 days from receipt in writing from the first party specifying such breach.

12.1.3 If any such event referred to in 12.1.1 or 12.1.2 above shall occur, termination shall become effective forthwith or on the date set forth in such notice whichever is the later date.

12.1.4 By the Customer giving not less than 90 (ninety) days notice in writing to V7, or by V7 giving not less than 6 (six) months notice in writing to the Customer

12.2 The expiry or termination of this Agreement shall be without prejudice to the rights of the parties accrued up to the date of such expiry of termination.

12.3 In the event of termination of this Agreement by V7 under Clauses 12.1.1 or 12.1.2 or by the Customer under Clause 12.1.4, there shall be no refund made to the Customer any unused proportion of the maintenance charges which have been paid to V7 .

13. LIABILITY

13.1 V7 does not exclude liability for death or personal injury to the extent that the same arises from the negligence of V7, its employees or agents. V7 confirms that a public liability insurance of £1,000,000 will be maintained at all times.

13.2 Save as provided in clause 13.1 V7 shall not be liable to the Customer or to any person for any loss or damage whatsoever or howsoever caused, arising directly or indirectly in connection with this Agreement or the maintenance services carried out hereunder otherwise than as imposed by law. Notwithstanding the foregoing generality, V7 expressly excludes liability for direct, indirect or consequential loss or damage to other equipment or property whether or not the same may be in V7's care, custody or control, or for loss of profit business revenue goodwill or anticipated savings.

14. FORCE MAJEURE

14.1 V7 shall be under no liability to the Customer for any breach of any provisions hereof or failure on its part to perform any obligation as a result of act of God, war (whether declared or not), sabotage, riot, explosion, Government control, restrictions or prohibitions or any other Government act or omission whether local or national, fire, accident, earthquake, storm, flood, epidemic, drought or other nature catastrophes or any other cause beyond the reasonable control of V7 and V7 will notify the Customer if affected by any of the causes referred to in this sub-clause.

14.2 In the event that V7 is unable to perform its obligations under this Agreement by reason of any of the causes referred to in sub-clause 14.1 above for a period of six months or more then either party may at any time after the expiration of such six month period terminate this Agreement by written notice.

15. NOTICES

Any notice required to be given hereunder shall be sufficiently given if sent by registered post, facsimile transmission or telex to the recipient at its registered office or last known address and shall be deemed to have been properly served at the time when in the ordinary course of transmission it would reach its destination.

16. GOVERNING LAW

This Agreement shall be governed construed and shall take effect in accordance with the laws of England and shall be subject to the non-exclusive jurisdiction of the English Courts

17. HEADINGS

- 17.1 The headings in this Agreement shall not be deemed to be part hereof or be taken into consideration in the interpretation of construction hereof.
- 17.2 If any of the words or provisions of this Agreement shall be deemed to be invalid for any reason then the Agreement shall be read as if the invalid provisions had to that extent been deleted there from and the validity of the remaining provisions of the Agreement shall not be affected thereby.

SCHEDULE "The Products"

- V7Server.exe – the main Dictation server module, running as a service.
- V7Router.exe – the Main Dictation Routing service.
- V7RouterIF.exe – the Intelligent Folders Router service.
- V7 Administrator Program
- V7 Typist Program
- V7 Author Program
- V7 Configurator
- V7 Active Directory Module
- V7 Telephony Module
- V7 IIS (Internet Information Services) Add-on module