

# TERMS AND CONDITIONS FOR SUPPORT AND SUBSCRIPTION SUPPORT SERVICES

This is a legal agreement between Customer and Isis Forensics Limited or ("Isis"). Customer's location of receipt of the THS and/or Subscription Services purchased (together or individually (as applicable) the "Support Services"). Isis will provide Support Services subject to and in accordance with these terms and conditions ("Conditions") and the Support Services description as set forth on [www.isis-forensics.com/support](http://www.isis-forensics.com/support) for the particular Support Services level purchased.

**NOTE: SUPPORT SERVICES ARE PROVIDED IN ENGLISH LANGUAGE ONLY.**

## 1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions:

**Commencement Date:** the date of Customer's purchase of the Support Services or, where Support Services are purchased directly from Isis and not via an authorised reseller, the date on which Isis confirms its acceptance of Customer's order.

**Charges:** the charges applicable for the Support Services as specified in the Isis invoice.

**Contract:** the contract between Isis and Customer for the Support Services in accordance with these Conditions.

**Customer:** the legal entity which purchases the Support Services.

**Documentation:** means any program documentation and manuals to enable proper use of the Software which are generally provided by Isis.

**Major Version:** a generally available release of the Software that contains significant enhancements or increased functionality, as designated by Isis by means of a change in the number to the left of the first decimal point (ie. Version 1.0 → 2.0)

**Minor Version:** a generally available release of the Software that contains minor enhancements or introduces a limited number of new features or functionality, as designated by Isis by means of a change in the number to the right of the first decimal point (ie. Version 1.1 → 1.2)

**Named Key Contact:** a contact specified by Customer which is authorised to communicate with Isis for THS.

**Service Pack:** a generally available release of the Software that normally provides fixes or corrections only, as designated by Isis by means of a change in the digit to the right of the second decimal point (ie. Version 1.1.0 → 1.1.1)

**Services Period:** means the period for which the Customer has purchased the Support Services commencing on the Commencement Date.

**Software:** the Isis software licensed to Customer and for which the Support Services are purchased. Software does not include any customisations which Isis may create for Customer.

**Subscription Services:** the provision of Major Version, Minor Version and Service Packs, if any and at Isis's discretion, to the Customer together with updated corresponding Documentation, via the Customers 'www.mylsis.com' account.

**Supported Software:** the most recent Major Version in issue from time to time and the immediately preceding Major Version (ie. Version 2.0 and 3.0).

**THS:** means the provision of help desk technical support by Isis to the Named Key Contact(s) for the support and remote diagnosis of reported problems, errors and faults at the support level purchased by the Customer. (Please note that (without limitation) THS does not include configuration, on-site or installation support.)

## 2. SUPPORT SERVICES

2.1 **Support Services.** Isis shall provide the Support Services for Supported Software during the Services Period at the Support Services level purchased. More detailed information on response times, contact information and hours of operation can be found at [www.isis-forensics.com/support](http://www.isis-forensics.com/support). In the event of any conflict or inconsistency between these Conditions and such information, these Conditions prevail. Support Services are sold in various combinations of additional entitlements which may be purchased by Customer, including technical relationship management coverage. All unused entitlements expire at the end of each one (1) year term. Any hotfixes or private fixes are not Software under the terms of the end user software license agreement pursuant to which the Software is licensed to Customer and they are not covered by the Limited Warranty or Intellectual Property Indemnity applicable to the Software, to the extent permitted by applicable law.

2.2 **Term.** A minimum of 1 year of Support Services must be purchased. Upon expiry of the Support Services Period the Support Services shall automatically cease. Upon any renewal, Isis's then current terms and conditions for the Support Services (as will be displayed at [www.isis-forensics.com/legals](http://www.isis-forensics.com/legals)) shall apply.

2.3 **All Licenses.** The Customer must purchase Support Services at the same level for all licenses for that Software.

2.4 **Eligibility.** Errors or faults caused by the following circumstances are not included within the Support Services but may be addressed separately upon Customer's request as an Additional Service by Isis Professional Services under Section 3:

- misuse, incorrect use of or damage to the Software or use of the Software otherwise than in accordance with the Documentation;
- incorrect or incomplete installation or configuration of the Software (except where installation is done by Isis as a separate service);
- any unauthorised modification or addition to the Software;
- any defect or error in any equipment or software not provided by Isis;
- the failure by Customer to implement recommendations issued in respect of errors or faults previously advised by Isis;
- Customer's environmental conditions for the Software; or
- any breach of Customer's obligations under the Contract.

Where it is determined that an error or fault is as a result of any of the circumstances above, the Customer shall pay all charges (at Isis's then prevailing rate) and reasonable expenses incurred by Isis for such work up to the point of determination.

2.5 **Customer Responsibilities.** Customer shall:

- co-operate with Isis in performing the Support Services and any Additional Support Services and provide any assistance or information as may be required by Isis including, without limitation, in relation to the diagnosis of an error or fault;
- provide full and safe access (including, without limitation, remote access) to its premises, systems, software and facilities as may reasonably be required by Isis for performing the Support Services;
- report errors and faults using the specified methods, and provide such details, as set out at the Support Services descriptions at [www.isis-forensics.com/support](http://www.isis-forensics.com/support); and
- keep full back-up copies of all of its data.

2.6 **Frequency of modifications:** Any dates given by Isis for delivery or frequency of Major Versions, Minor Versions or Service Packs and any other modifications shall be treated as approximates only.

2.7 **Changes to Support Services.** Isis may, at its discretion and without notice, make changes to the Support Services at any time provided that such changes do not have a material adverse effect on Customer's business operations.

## 3. CHARGES AND PAYMENT

3.1 **Application of Section 3.** This Section 3 applies only where the Customer purchases Support Services directly from Isis and in respect of any charges becoming due under Section 2.4. Where purchase is made via an Isis reseller, the charges and payment terms as between the reseller and the Customer shall apply.

3.2 **Charges.** Charges, including renewals, are at Isis's then-current price list (or as otherwise agreed by Isis). If Customer purchases the Support Services after purchasing the Software or had elected not to renew Support Services and later wishes to re-subscribe to the Support Services, Customer must move to the then-current Major Version and must pay: (i) the applicable Charges for the current Services Period; and (ii) the Charges that would have been paid for the period that the Customer had not subscribed to the Support Services; and (iii) a 20% reinstatement fee on the total of the Charges in (i) and (ii).

3.3 **Taxes and Quotes.** All Charges are exclusive of any applicable sales taxes, duties or similar charges imposed, which shall be for the account of the Customer. Any quotation for Support Services shall not constitute an offer. A quotation shall only be valid for a period of 1 month from its date of issue.

3.4 **Payment Terms.** Charges and other payments due to Isis under these Conditions are payable annually in advance in full and cleared funds within 30 days of date of invoice, without set off or deduction. Payment shall be made by electronic funds transfer. Charges are non-refundable.

3.5 **Taxes.** All Charges are exclusive of any applicable sales taxes, duties or similar charges imposed, which shall be for the account of the Customer.

3.6 **Late Payment.** If Customer fails to pay any Charges by the due date for payment, Isis may (without prejudice to its other rights and remedies): (a) charge interest on the overdue amount from the due date up to date of payment (whether before or after judgment) at a rate of 1.5% per annum above the base rate from time to time of Isis's then current bank; and/or (b) suspend provision of all Support Services until all outstanding payments are made in full.

4 **Intellectual Property Rights.** All intellectual property rights (including, without limitation, any patents, copyrights, rights in software, technical or commercial know-how, trademarks and trade secret) in or arising out of in connection with the Support Services shall be owned by Isis. All software deliverables provided to Customer under the Support Services shall be licensed to Customer on the terms of the license agreement pursuant to which the Software is licensed to Customer.

5 **Limited Warranty.** Isis warrants that the Support Services will be performed with reasonable care and skill. Upon Customer providing Isis with a reasonably detailed written notice to cure within 30 days of occurrence of the non-conformance, Isis will reperform the Support Services to achieve material compliance with the above warranty. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS EXPRESSLY SET FORTH IN THESE CONDITIONS, ALL SUPPORT SERVICES AND DELIVERABLES ARE PROVIDED "AS-IS" AND ISIS HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR WARRANTY IS GIVEN THAT ERRORS OR FAULTS WILL BE FIXED OR FIXED WITHIN A SPECIFIED PERIOD OF TIME. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THIS SECTION 6 SETS OUT THE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY NON-COMPLIANCE WITH THE WARRANTY.

6 **Exclusion of Certain Losses.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CUSTOMER AGREES THAT IN NO EVENT SHALL ISIS, ITS AFFILIATES, SUPPLIERS, SUBCONTRACTORS OR AUTHORISED DISTRIBUTORS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES WHATSOEVER, OR FOR ANY LOSS OF GOODWILL, LOST PROFITS, LOSS OF BUSINESS OR LOST OPPORTUNITIES IN ANY WAY RELATING TO THE CONTRACT, EVEN IF ISIS HAS BEEN NOTIFIED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, AND REGARDLESS OF WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE.

7 **Limitation of Liability.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF ISIS OR ANY OF ITS AFFILIATES, SUPPLIERS, SUBCONTRACTORS OR AUTHORISED DISTRIBUTORS UNDER OR IN CONNECTION WITH THE CONTRACT EXCEED THE CHARGES PAID BY CUSTOMER FOR THE SUPPORT SERVICES IN THE 12 MONTHS PRIOR TO THE DATE ON WHICH THE LIABILITY ARISES. NOTHING IN THESE CONDITIONS SHALL HAVE THE EFFECT OF LIMITING OR EXCLUDING ANY LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE OR FOR FRAUD OR FOR ANY OTHER LIABILITY TO THE EXTENT THAT IT CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

8 **Termination.** Without prejudice to any rights or remedies, either party may terminate the Support Services on written notice if the other party commits a material breach of these terms and conditions and, if such breach is remediable, fails to remedy that breach within 30 days after being notified in writing to do so. The Support Services will terminate automatically on termination or expiry of the license agreement pursuant to which the Software is licensed to Customer. Termination or expiry will not affect the accrued rights, remedies, obligations or liabilities of either party.

## 9. GENERAL

9.1 **Force Majeure.** Neither party shall be liable for any delay in performing its obligations under the Contract if such delay is caused by a circumstance beyond its reasonable control such circumstances being any act of God, war, riot, explosion, abnormal weather conditions, loss of utilities, fire, flood, strike, illness, lock out or industrial dispute and/or governmental or regulatory authority action.

9.2 **Entire Agreement.** These Conditions represent the entire agreement between the parties in relation to its subject matter and supersede all previous agreements, negotiations and discussions and exclude any terms that Customer seeks to impose or incorporate on or by reference in its purchase order or other business forms, or which are implied by trade, custom, practice or course of dealing. The Customer agrees that it has not purchased the Support Services in reliance upon any statement, representation or warranty or understanding of any person except as expressly set out in these Conditions. Nothing in these Conditions shall be interpreted as limiting liability for fraud.

9.3 **Variation.** No variation of the Contract shall be binding upon the parties unless agreed in writing by a duly authorised representative of each party.

9.4 **Assignment.** Customer may not assign, sub-contract or transfer its rights and/or obligations under the Contract without Isis's prior written consent. Isis shall be free to assign, sub-contract or transfer its rights and/or obligations under the Contract.

9.5 **Severability.** If any provision of the Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the remaining provisions shall remain in full force and effect.

9.6 **Waiver.** The failure to exercise or delay in exercising any right or remedy under the Contract shall not be regarded as a waiver of such right or remedy, or a waiver of other rights or remedies.

9.7 **Third party rights.** Any Isis affiliate shall be entitled to enforce these Conditions. 'Affiliate' shall refer to any company which controls, is controlled by or is under common control with Isis and 'control' means ownership of 50% of more of voting securities.

10.8 **Governing Law.** These terms and any dispute or claim arising out of or in connection with them or in connection with their subject matter (including, without limitation, non-contractual disputes) are governed by the laws of England and Wales, without regard to conflict of laws principles and the parties agree to submit to the non-exclusive jurisdiction of the courts of England and Wales unless provided otherwise by mandatory law.