



## End-User IT Services Agreement

### 1. GENERAL

- (a) This End-User Agreement relates to the telephone, Internet and email facilities and any other agreed items or services (referred to as the 'Telephone Service'; 'Internet Service', 'Email Service' and 'Other Services' respectively, and together as 'the Services') supplied by Argyll Management Limited to our customers ('you/your').
- (b) The terms of this End-User Agreement are intended to set out the basis on which the Services are supplied, to ensure that you make fair use of the Services, and to ensure that you do not put our computer systems at risk.
- (c) We may from time to time notify you in writing of changes to the terms of this End-User Agreement, to provide further detail about or reasonable restrictions on your fair use of the Services. Your continued use of the Services will constitute an acceptance of the terms of this End-User Agreement as they are changed from time to time.
- (d) You are responsible for ensuring compliance with the terms of this End-User Agreement by you or anyone using any of the Services, including your employees, whether authorised by you or not, and for any breach of the terms of this End-User Agreement.
- (e) Your access to the Services may be suspended or terminated for breach of the terms of this End-User Agreement.
- (f) You are not permitted to install telephone systems, internet circuits or wireless devices including but not limited to 3G or 4G wireless internet devices and multiple network mobile signal boosters.
- (g) You are not allowed to add any additional devices to the Argyll Management Ltd network (LAN), other than your own PCs and/or laptops, printers, scanners or fax machines. Wireless printers must be set up as per the guidelines available from the Business Centre and are not permitted to transmit their own SSID.
- (h) If you have any questions, please contact us at [it@workargyll.com](mailto:it@workargyll.com)

## 2. AVAILABILITY OF THE SERVICES

### (a) Service monitoring and reporting

- (i) For the purposes of this paragraph, the availability of the Services means the proportion of time in any month (24 hours a day, seven days a week) that the Services are effectively operational, expressed as a percentage, but excluding Scheduled Service Downtime and Planned Maintenance Shutdown.
- (ii) We will ensure that the availability of the Services is monitored 24 hours a day, 365 (or 366) days a year in order to ensure that any problems, defects or delays in the operation of the Services are promptly resolved with the minimum of inconvenience to you.
- (iii) We will inform you as soon as reasonably practicable of any problems in the provision of the Services.

### (b) Scheduled Service Downtime

We will be entitled to shutdown access to the Services, for not more than an aggregate of three (3) hours per week (unless otherwise agreed in writing with you) for the purpose of carrying out scheduled maintenance (a 'Scheduled Service Downtime') provided that:

- (i) we will notify you when a Scheduled Service Downtime is to take place;
- (ii) no Scheduled Service Downtime will commence prior to 8:00 pm or continue after 8:00 am;
- (iii) We will give you not less than 5 Business Days' notice in writing of any Scheduled Service Downtime.

### (c) Emergency Shutdown

In the event that we require an emergency shutdown of access to the Services otherwise than for the purpose of a Scheduled Service Downtime or a Planned Maintenance Shutdown (as defined below) (an 'Emergency Shutdown'), we will notify you forthwith upon becoming aware of the need for an Emergency Shutdown (and in any event not more than one hour after the Emergency Shutdown taking effect) giving clear details of the reason for the Emergency Shutdown, the action required to be taken by us and the estimated time scale for carrying out such action in order to restore the Services to normal availability.

### (d) Planned Maintenance Shutdown

- (i) In the event that we require the planned shutdown of access to the Services otherwise than for the purpose of a Scheduled Service Downtime or an Emergency Shutdown (a 'Planned Maintenance Shutdown'), we will notify you forthwith upon becoming aware of the need for a Planned Maintenance Shutdown.
- (ii) We may make a maximum of four (4) Planned Maintenance Shutdowns per year, will not normally exceed more than eight (8) hours. The dates and length of the Service Outage will be notified to you at least ten (10) Business Days in advance.

(e) Third party suppliers

We shall not be liable to you for any loss of availability of any of the Services or be deemed to be in default of our obligations under this End-User Agreement by reason of any delay or failure in the supply of third party services such as telecommunications providers.

(f) Security of the Services

- (i) We will take such reasonable steps through the use of appropriate encryption and firewall technology as may be required to ensure that the Services are protected against unauthorised access, manipulation or misuse.
- (ii) We shall not be liable to you or be deemed to be in default of our obligations under this End- User Agreement for any loss of availability of any of the Services by reason of any failure by you, or any person authorised by you to have access to the Services, to comply with the terms of this End-User Agreement, or by reason of any unauthorised access, manipulation or misuse by any person notwithstanding our compliance with paragraph 2 (f) (i).

### 3. NETWORK AND DATA FAIR USE POLICY

- (a) You may not use the Internet Service to engage in illegal, abusive, or irresponsible behaviour, including:
  - (i) unauthorised access to or use of data, services, systems or networks, including any attempt to probe, scan or test the vulnerability of a system or network or to breach security or authentication measures without express authorisation of the owner of the system or network;
  - (ii) monitoring data or traffic on any network or system without the authorisation of the owner of the system or network;
  - (iii) interference with service to any user, host or network including, without limitation, mailbombing, flooding, deliberate attempts to overload a system and broadcast attacks;
  - (iv) use of an Internet account or computer without the owner's authorisation, including, but not limited to Internet scanning (tricking other people into releasing their passwords), password robbery, security hole scanning, and port scanning;
  - (v) forging of any TCP-IP packet header or any part of the header information in an email or a newsgroup posting; or
  - (vi) any activity or conduct that is likely to result in retaliation against the Services.
- (b) If you overload the network (for example by using peer to peer or file sharing software), we reserve the right to manage your bandwidth (which could result in reduced service speeds).
- (c) You may not download, upload, publish, display or transmit via the Services any content that we reasonably believe:

- (i) constitutes child pornography or is otherwise obscene, sexually explicit or morally repugnant;
  - (ii) is excessively violent, incites violence, threatens violence, or contains harassing content or hatespeech;
  - (iii) is unfair or deceptive under the consumer protection laws of any jurisdiction, including chainletters and pyramid schemes;
  - (iv) is defamatory or violates a person's privacy;
  - (v) creates a risk to a person's safety or health, creates a risk to public safety or health, compromises national security, or interferes with an investigation by law enforcement;
  - (vi) improperly exposes trade secrets or other confidential or proprietary information of another person;
  - (vii) is intended to assist others in defeating technical copyright protections;
  - (viii) clearly infringes another person's trade or service mark, patent, or other intellectual property right;
  - (ix) promotes illegal drugs, violates export control laws, relates to illegal gambling, or illegal armstrafficking;
  - (x) is discriminatory in any way, including by way of sex, race, or age discrimination;
  - (xi) is otherwise illegal or solicits conduct that is illegal under laws applicable to you or to us; or
  - (xii) is otherwise malicious, fraudulent, or may result in retaliation against us by offended viewers.
- (d) Content "published or transmitted" via the Services includes Web content, email, bulletin board postings, chat, and any other type of posting, display or transmission that relies on the Internet.
- (e) You may not use the Services to download, publish, distribute, or otherwise copy in any manner any music, software, art, or other work protected by copyright law unless:
- (i) you have been expressly authorised by the owner of the copyright for the work to copy the work in that manner; or
  - (ii) you are otherwise permitted by copyright law to copy the work in that manner.

#### 4. TELEPHONE SERVICE

- (a) You may not use the Telephone Service to operate an automated call centre service.
- (b) You may not use the Telephone Service for any illegal purpose or in any illegal manner.
- (c) Any agreed call packages are subject to fair usage. If, in the reasonable opinion of the host carrier, your use is excessive, we may ask you to moderate your usage or charge you for the additional call time.

## 5. SECURITY

- (a) You must take reasonable security precautions regarding your use of any of the Services.
- (b) We take measures to prevent unauthorised access to our networks, however we do not accept responsibility for system intrusion or virus attacks on any system in the building.

## 6. MANAGEMENT SYSTEM

- (a) Should you be granted access to use the software relating to the essensys Management System (the 'Software'), it is granted on a non-exclusive, non-transferable right and is solely for your internal business purposes.
- (b) The licence is limited to use of the Software in machine readable form on in the network environment and for the maximum number of permitted End-Users.
- (c) We warrant that the Software will comply in all material respects with the documentation for it current at the date of supply, when properly used in accordance with the documentation. We do not warrant or undertake that the Software will be free from any defect or error, but will use reasonable efforts to correct any defect or error reported by you [within 30 days after the supply of the Software]. All other conditions, warranties or other terms, express or implied by statute or otherwise, as to the quality, merchantability or effectiveness or of the Software or its fitness for any purpose are excluded.
- (d) You may not:
  - (i) adapt, alter, modify or create any derivative works of the Software;
  - (ii) decompile, disassemble, reverse engineer, or otherwise attempt to derive the source code for the Software (except to the extent applicable laws specifically prohibit such a restriction);
  - (iii) redistribute, publish, sell, rent, lease, lend, sub-license, part with possession of or otherwise transfer the Software to any other person, or permit any other person (except the Licensee's properly trained and authorised employees) to have access to or use the Software in any way;
  - (iv) remove or alter any trade mark, copyright or other proprietary notices, logos, legends, symbols or labels in or on the Software;
  - (v) remove or alter the security or use restriction mechanisms implemented in the Software;
  - (vi) transmit, or input into the Site, any files that may damage any other person's computing devices or Software, content that may be offensive, or material or data in violation of any local or international law (including data or other material protected by copyright or trade secrets which the Licensee does not have the right to use);
  - (vii) attempt to undermine the security or integrity of the Licensor's computing systems or networks or, where the Services are hosted by a third party, that third party's computing systems and networks;

- (viii) use, or misuse, the Software in any way which may impair the functionality of the Software or the Site, or other systems used to deliver the Software or impair the ability of any other user to use the Software or the Site; and
  - (ix) attempt to gain unauthorised access to any materials other than those to which the Licensee has given express permission to access or to the computer system on which the Software or the Site are hosted
- (e) You will comply with all applicable laws and regulations that apply to the Software.
- (f) If you fail to comply with any of these terms, the licence will terminate automatically.
- (g) You will ensure that each of its employees who have access to any such information is instructed as to its confidential nature, and takes all practicable steps to prevent the unauthorised disclosure or use of it.
- (h) On termination of the licence for any reason, you will delete all copies of the Software.

## 7. MONITORING

- (a) We may monitor your use of the Services to:
- (iv) ensure that you comply with this End-User Agreement;
  - (v) prevent or detect crime;
  - (vi) investigate or detect the unauthorised use of our facilities (as explained in this End-User Agreement or as prescribed by law); and
  - (vii) ensure the effective operation of the Services
- (b) We may use “traffic monitoring” software to track the sites and pages visited, the time of day sites are visited and the length of stay at sites. Traffic monitoring is used to analyse the sites people use so that we can plan for providing additional services if needed. Traffic monitoring will also be used to detect unauthorised or excessive use of the Internet.
- (c) We may periodically test the integrity of the security of our network using automated scanning solutions.
- (d) Notwithstanding the above, we are under no duty, and under the terms of this End-User Agreement we are not deemed to undertake a duty, to monitor or police our users’ activities and we disclaim any responsibility for any misuse of the Services.

## 8. COOPERATION WITH INVESTIGATIONS AND LEGAL PROCEEDINGS

We may, without notice to you:

- (a) report to the appropriate authorities any conduct by you that we believe violates applicable criminal law, and
- (b) provide any information we have about you and co-operate in response to a formal or informal request from a law enforcement or regulatory agency investigating in any such activity, or in response to a formal request in a civil action that on its face meets the requirements for such a request.

## 9. OTHER SERVICES

Where at your request we arrange the supply of any items such as headsets or peripheral hardware, or managed software, we do so as agent for the supplier, and the items or software in question will be supplied on and subject to the terms and conditions of the relevant supplier, which you undertake to comply with.

## 10. GENERAL

- (a) You must have valid and current information on file with your domain name registrar for any domain hosted on our servers.
- (b) You may only use IP addresses assigned to you by us.

## 11. CONSEQUENCES OF BREACH OF THIS END-USER AGREEMENT

- (a) We may, without notice to you, suspend your Services or remove any content transmitted via the Services if we reasonably believe you are in breach of this End-User Agreement. You must cooperate with our reasonable investigation of any suspected breach of this End-User Agreement.
- (b) You are strictly responsible for the use of the Services in breach of this End-User Agreement, including use by your employees, and including unauthorised use that you could not have prevented. We will charge you our standard hourly rate for work required as a result of any breach of this End-User Agreement together with the cost of equipment and material needed to:
  - (i) investigate or otherwise respond to any suspected breach of this End-User Agreement,
  - (ii) remedy any harm caused to us or any of our Customers by your use of the Services in breach of this End-User Agreement,
  - (iii) respond to complaints, and
  - (iv) have our Internet Protocol numbers removed from any "blacklist".

## 12. BASIS OF THE SERVICES

- (a) Except as expressly provided in this End-User Agreement, we make no representation and give no warranty or undertaking, whether express or implied, concerning the Services, and all terms implied by statute or otherwise are excluded to the full extent permitted by law.
- (b) Any difference, disagreement, dispute or claim arising out of or in connection with the supply of the Services (or any failure to supply the Services) must be taken up with Argyll Management Limited.

### 13. LIMITATION OF LIABILITY

Except in the case of death or personal injury caused by negligence, fraudulent misrepresentation or any other liability that may not be legally excluded or restricted, we shall have no liability to you arising out of or in connection with the supply of the Services, or any failure to supply the Services, for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by negligence or otherwise), and our entire liability to you so arising in respect of any one event or series of events in any period of 12 months (or any lesser period for which you may use the Services) shall not exceed the amount of the charges payable by you for the Services in respect of the period in question or fifty thousand pounds (£50,000), whichever is the lesser amount.

### 14. GENERAL

This End-User Agreement is subject to English law and the jurisdiction of the English courts.