



Terms & Conditions - Software Support

Idealpos Solutions Pty Ltd ACN 091 801 204

1. Terms & conditions of Software Support

Idealpos Solutions Pty Ltd ACN 091 801 204 (**IPS**) provides the Software Support to the Buyer and its Authorised Users on the terms and conditions contained in this Support Agreement (Agreement). The Buyer, by completing a Support Membership Application Form, warrants that:

- (a) it will access the Support on the terms and conditions contained in this Agreement;
- (b) it has had the opportunity to review and accept the terms and conditions contained in this Agreement;
- (c) the Buyer has a current Licence to use IPS's software.
- (d) IPS does not provide support for Computer hardware issues;
- (e) the representative of the Buyer who completed the Application Form has the authority to enter into this Agreement on behalf of the Buyer.

1.2 Definitions

In this Agreement:

Business Day means a day that is not a Saturday, Sunday or public holiday in Brisbane, Queensland.

Business Hours means the hours between **8.30am and 5.00pm** on a Business Day.

Buyer means the Party that has a current licence to use the Software and a Membership Package entitling them to receive Support.

Commencement Date means the date the Software is installed on the Buyer's computers and IPS receives payment for the Goods and Services.

Computer means physical computers, computer terminals, thin clients and virtual computers.

Customer means a Representative of the Buyer.

Email Support means email support provided pursuant to clause 4.2.

Term means one (1) year from the Commencement Date or from the Renewal Date or the Anniversary of after the expiry of the Renewal Period.

Insolvency Event means circumstances in which a Party takes any corporate action or any steps are taken or legal proceedings are started for its winding-up, dissolution, or liquidation, or takes steps to appoint a controller, receiver, administrator, official manager, trustee or similar officer of it.

Membership Fee means the fee paid by the Buyer to IPS in exchange for the right to receive Software Support based on the total number of Software Licences held by the Buyer.

Membership Package means the benefits provided by IPS in relation to Support for the Software as contained in the Support Agreement.

Online User Guide means the online user guide available at <http://www.idealpos.com.au/user-guide.html>

Party means a party to this Agreement and Parties means both parties to the Agreement.

Privacy Policy means IPS' privacy policy. If you require a copy, please contact Idealpos Solutions and one will be emailed to you.

Remote PC Access Support means remote personal computer access provided pursuant to clause 2.2.

Renewal Period means a one (1) year period of Membership commencing on the expiration of the Initial Period and any further renewal period.

Software means the IPS software that the Buyer has a Licence(s) to use from IPS for as shown in the Quote received from IPS.

Software Support means either Email Support, Phone Support and Remote PC Access Support on the terms and conditions of this Agreement.

Term means the Initial Period and further Renewal Periods as applicable.

Updates means any modifications, new or revised versions of the source code that the Software requires to operate more efficiently or effectively as determined by IPS at its sole discretion.

Urgent Software Support means where the software is not working or produces consistent errors that prevents you from performing sale operations.

2. Term and conditions of Support

2.1 Commencement and term

This Agreement commences on the Commencement Date and continues for the Term provided that the Buyer has paid the Membership Fee in accordance with its Membership Package.

2.2 Software Support

- (a) IPS will provide the Buyer with:
 - (i) Updates;
 - (ii) reasonable Phone Support, Email Support, Remote PC Access Support; and
 - (iii) access to the Online User Guide and Knowledgebase.
- (b) IPS will provide the Software Support to the Buyer subject to the Buyer:
 - (i) paying the Membership Fee; and
 - (ii) complying with its obligations in clause 4.
- (c) Software Support is available on Business Days during Business Hours.
- (d) IPS will use reasonable endeavours to provide the Software Support when required and will provide it with the standard of care and diligence expected of a reasonably competent developer of software.
- (e) Software Support will only be provided for technical difficulties and general Software and IPS product enquiries.
- (f) If the Buyer does not have a current Membership Package, or its Membership is inactive, the Buyer will be required to pay for the Software Support before it is provided.

2.3 Membership Fee

- (a) IPS may increase the Membership Fee for a subsequent Renewal Period by providing the Buyer with written notice of its intention to do so at least twenty-eight (28) days prior to the Renewal Period commencing.
- (b) If the Buyer does not want to pay the increased Membership Fee, it must notify IPS of its decision to terminate this Agreement before the date the Renewal Period commences.

2.4 Amendments

- (a) IPS may amend the terms of this Agreement by providing the Buyer with written notice of its intention to do so and a copy of the proposed amendments at least twenty-eight (28) days prior to the commencement of the new Agreement commencing.
- (b) If the Buyer does not agree to abide by the terms of the amended Agreement it must notify IPS of its decision to terminate this Agreement prior to the date the amended Agreement commences.

2.5 Software Updates

- (a) Where necessary, IPS will provide the Buyer with a password to perform the Updates.
- (b) The Buyer can obtain Updates by using the "Software Update" feature contained in the Software.

3. Support types

3.1 Phone Support

- (a) Phone support is for Urgent Software support.
- (b) **Urgent** means where the Software is not working or produces consistent errors that prevents you from performing sale operations.
- (c) The Customer will speak to IPS' experienced support personnel and information about the call will be logged in IPS customer tracking database.
- (d) If IPS' support personnel are unable to take the telephone call, the telephone call will be prioritised for a call back.

3.2 Email Support

- (a) Email support is for standard Support enquiries.

- (i) The Customer should describe their Software support enquiry in an email to IPS;
- (ii) IPS' support personnel will prioritise the Authorised Idealpos Support User's email enquiry and respond as soon as possible.

3.3 Remote Computer Access Support

- (a) IPS will provide Remote Computer Access Support if the Buyer's point of sale terminals or Computers have internet access.
- (b) The Software is preinstalled with TeamViewer which allows IPS to access the Buyer's network by requesting an identification number and password from the Customer.
- (c) IPS will notify the Buyer of any changes to TeamViewer or any other technology used to provide remote personal computer access and the Buyer must update TeamViewer or any other technology in order to continue receiving remote personal computer access support.

4. Buyer's obligations

4.1 Authorised Users

The Buyer must notify IPS of any change:

- (a) of ownership of the Buyer;
- (b) to the Buyer's contact details, including email address.

4.2 Renewal of Membership

- (a) This Agreement will automatically renew for a subsequent Renewal Period unless either Party notifies the other of its intent to terminate this Agreement within **twenty-one (21) days prior** to the date the Renewal Period commences.
- (b) The Buyer has consented to the payment of Renewal Fees by Direct Debit to its nominated credit card.

5. Termination

5.1 Mutual termination

Either Party can terminate this Agreement:

- (a) if the other commits a material breach of any of the terms and conditions of this Agreement and fails to rectify the breach when the breach is brought to its attention;
- (b) immediately upon either Party suffering an Insolvency Event; or
- (c) pursuant to clause 5.2.

5.2 Termination by the Buyer

The Buyer can terminate this Agreement pursuant to clauses 2.3(b) and 2.4 (b).

5.3 Termination by IPS

IPS can terminate this Agreement on the Buyer failing to pay the Membership Fee or if the Buyer fails to have a current Licence to its Software.

6. Miscellaneous provisions

6.1 Assignment

IPS may assign this Agreement by notifying the Buyer of the assignment. The Buyer cannot assign the terms and conditions contained in this Agreement without the express consent of IPS, such consent will not be unreasonably withheld.

6.2 Approvals and consents

Except where this Agreement expressly states otherwise, a Party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Agreement.

6.3 Consent to the provision of information to third parties.

The Buyer acknowledges that the terms and conditions of the Privacy Policy apply to the provision of Support. Personal information as defined in the *Privacy Act 1988* (Cth) may be provided to agents of IPS for the purposes of providing services under this and other agreements that the Buyer has with IPS.

6.4 Entire agreement

This Agreement contains the entire agreement between the Parties in connection with its subject matter and supersedes all previous agreements or understandings between the Parties.

6.5 Governing law and jurisdiction

The laws of Queensland and Australia govern this Agreement. The Parties submit to the non-exclusive jurisdiction of the Supreme Court of Queensland and the Federal Court of Australia.

6.6 Goods and Services Tax

- (a) Words defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause, unless the context makes it clear that a different meaning is intended.
- (b) For the purposes of this Agreement where the expression "GST inclusive" is used in relation to an amount payable or other consideration to be provided for a supply under this Agreement, the amount or consideration will not be increased on account of any GST payable on that supply.
- (c) Any consideration to be paid or provided for a supply made under or in connection with this Agreement, unless specifically described in this Agreement as "GST inclusive", does not include an amount on account of GST.

6.7 Severance

Part or all of a provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining parts of the provision or provisions continue in force.

6.8 Survival

The obligations of confidentiality survive termination of this Agreement to the fullest extent possible.

6.9 Waiver

The non-exercise of or delay in exercising a right of a Party will not operate as a waiver of that right, nor does a single exercise of a right preclude another exercise of it or the exercise of other rights. A right may only be waived by Notice, signed by the Party (or its Authorised Representative) to be bound by the waiver.