

# Terms & Conditions

## iPresent Master Service Agreement (last updated 25 May 2018)

This Agreement covers the purchase and use of the Service provided by the Company. By subscribing for the Service provided by the Company, the Customer agrees to the terms and conditions of this Agreement.

### 1. Definitions

In this Agreement the following words and expressions shall have the following meanings.

“Accepted Order” means any order placed by a Customer for the supply of the Services which has been accepted by the Company

“Agreement” means this iPresent Master Service Agreement as amended from time to time in accordance with the terms of this Agreement together with the Accepted Order

“Applicable Data Protection Law” means Regulation (EU) 2016/679 of the European Parliament on the protection of natural persons with regard to the processing of personal data and any act of UK parliament which brings this into force. For the purposes of this Agreement the terms "controller", "personal data", "processor", "sub-processor", "data subject", "process" and "processing" have the meaning set out in Applicable Data Protection Law.

“Company” means iPresent Ltd (company registered number 08048599) of Delta House, 7 Oriel Court, Alton, Hampshire, GU34 2YT, United Kingdom

“Customer” means any person or organisation with whom the Company enters into an Agreement subject to these Conditions

“Customer Data” means electronic data or information submitted by the Customer to the Service

“Downtime” means any service interruption in the availability to the Customer of the Service

“Intellectual Property Rights” means patents, trademarks, design rights, applications for any of the foregoing, copyright, topography rights, database rights, rights in know-how, trade or business names and other similar rights or obligations, whether registerable or not in any country

“In Writing” means in any permanent written form including email

“Password” means the alphanumeric characters chosen and used exclusively by the Customer at its own risk for the purpose of securing and maintaining the exclusivity of his access to the Company's Service

“Server” means the computer server equipment operated by the Company or an approved 3rd Party in connection with the provision of the Service

“Service” means the iPresent services provided by the Company as amended from time to time

“Subscription Term” means the duration for which the Customer has ordered the Service, from the receipt of the first payment of a subscription to the Service, or in the case of Customers paying by invoice from the date identified as the start date on the invoice

“Spam” means sending unsolicited and/or bulk emails

“Users” means individuals who are authorised by the Customer to use the Service, for whom subscriptions to the Service have been purchased, and who have been supplied user identifications and passwords for accessing the Service

“Working Day” means Mondays to Fridays except for public holidays

“Working Hours” means Mondays to Fridays 9am to 5:30pm except for public holidays

1.1. In this Agreement, unless the context otherwise requires, or it is otherwise specified:

- any reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted;
- words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporate; and (in each case) vice versa;
- any reference to a party includes a reference to its successors in title and permitted assigns;
- references to clauses and schedules are to be construed as references to the clauses of, and schedules to, this Agreement;
- the headings to the clauses are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

1.2. In the event of any conflict (whether as to interpretation or otherwise) between the provisions of an Accepted Order and this Agreement the following order of precedence shall apply:

- this Agreement; and
- the Accepted Order

1.3. A third party who is not a party to the Agreement has no right to enforce any term of it.

## 2. (intentionally blank)

## 3. Users Subscriptions

3.1. Services are purchased per User and may be accessed by no more than the number of Users for whom subscriptions have been purchased. However, new Users may be added to replace former Users who no longer require use of the Service.

3.2. Additional Users may be added at any time during the Subscription Term at the price advertised on the website ([www.ipresent.com](http://www.ipresent.com)). The Customer shall be charged the pro-rated fee up to the renewal date of its existing subscription, after which subsequent invoices shall include the new Users.

3.3. If Users are removed during the subscription term, no monies shall be refunded. The Service will remain available for the existing number of Users until the end of the Subscription Term, at which point the new Subscription Term shall commence for the reduced number of Users.

## 4. The Service

4.1. The Company shall provide to the Customer the Service subject to the following terms and conditions.

4.2. The Company will use reasonable endeavours to provide the Service 24 hours a day, 7 days a week, except for (i) planned Downtime in respect of which the Company shall, where practicable, schedule such Downtime for between Saturday 20:00 and Sunday 23:00 GMT, (ii) unavailability due to circumstances beyond the Company's reasonable control.

4.3. There is a self-service support facility provided by the Company which is available 24 hours a day, 7 days a week and gives access to the help pages and the opportunity to raise new support requests. The Company's support department monitors raised requests during Working Hours and aims but does not undertake to respond within 4 Working Hours to the Customer.

4.4. All Intellectual Property Rights and all other rights utilised in the supply of the Service shall be owned by the Company. The Company hereby licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the

Customer to make reasonable use of the Service as is envisaged by the parties. If this Agreement is terminated by either party for any reason this licence will automatically terminate.

4.5. The Customer acknowledges that the Service may take up to 24 hours from the date of payment until it is fully operational.

4.6. The Company shall provide the Service to the Customer as soon as reasonably possible. Any date/time indicated by the Company as a date/time for the Service to be fully operational is an estimate only and may be liable to change without prior notification to the Customer. Accordingly, the Company will not be responsible for any delay in activating the Service by such a date/time.

4.7. It shall be the responsibility of the Customer to ensure that the contact, billing and other email addresses, mail address, telephone and fax numbers held by the Company are correct and up to date. Customers must ensure that email and other addresses are updated promptly. The Company will not be held liable for any failure to contact Customers as a result of using addresses held within records but not updated by Customers.

4.8. The Service has a 10GB resource library storage limit per Customer for a Standard subscription, a 1TB resource library storage limit per Customer for a Pro subscription. There is no disk storage limit for Enterprise subscription. There is a 250MB resource library storage limit per Customer for a Lite subscription.

4.9. It shall be the sole responsibility of the Customer to ensure:

- Users' compliance with the Agreement and in particular, but without limitation clauses 4.9, 6 and 14
- the accuracy, integrity and legality of the Customer Data
- the Service is used in the way for which it was designed
- the service is not sold, re-sold, rented or leased
- Users and the Customer use reasonable endeavours to prevent unauthorised access to the Service, and inform the Company immediately if such breach occurs
- no attempt is made to gain unauthorised access to the Service or related Servers, systems and networks

## 5. Payments

5.1. Charges for the Service shall be paid by the Customer to the Company in advance monthly or annually unless any other payment method has been agreed in writing between the Company and the Customer.

5.2. The Company reserves the right at any time to vary all charges by giving one month's notice to the Customer by email.

5.3. If this agreement is upgraded to provide a higher level of Service, then the Service will continue at the higher rate for the remainder of the Subscription Term.

5.4. Any Service upgrade charges detailed in any of the Company's published tariffs shall be paid by the Customer to the Company in advance, covering the period to the next payment date for the Subscription Term and thereafter simultaneously with the original Service payment.

5.5. All payments shall be due to the Company on presentation of invoice unless otherwise specified on the invoice.

5.6. Interest shall accrue from day to day whether before or after judgment on overdue amounts at the rate of 2% per month together with VAT if applicable. It shall be payable by the Customer to the Company upon demand.

## 6. Usage

6.1. The Customer hereby agrees to refrain from uploading to the Service or transferring to or receiving from other users of the Service or transferring to any other 3rd party through the Service, any illegal material (including but not limited to material which may be deemed to be

offensive, abusive, indecent, defamatory, obscene, menacing or in breach of copyright, privacy or other rights).

6.2. The Customer hereby agrees to refrain from sending menacing, offensive, abusive or annoying messages (including, but not exclusively, 'Spam' or Unsolicited Commercial Email 'UCE'), through the Service or whilst using the Service.

6.3. The Customer hereby agrees to not divulge its passwords to any third party and use all reasonable endeavours to keep the same confidential and inaccessible to third parties.

6.4. The Customer hereby agrees immediately to cease to use the Service on termination of this Agreement.

6.5. The Customer hereby agrees not to use or permit the usage of the Service in an unlawful manner or otherwise in breach of any relevant legislation, regulations or codes of practice governing the use of the Internet.

6.6. The Company reserves the right to restrict or block access to the Service in the event of a failure to abide by this Agreement. This may include, but not exclusively, the transmission of unsolicited email.

6.7. The Company does not tolerate abusive behaviour from anyone and reserves the right to terminate, without further notice or refund, the Services to any Customer or User who demonstrates abusive, intolerant, violent, verbally abusive or threatening behaviour towards iPresent Ltd, its staff, contractors, customers or other users.

## 7. Limitation of Liability

7.1. The following provisions set out the entire financial liability of the Company (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- any breach of the Agreement howsoever arising;
- any use made by the Customer of the Service or any part of it; and
- any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

7.2. All warranties, conditions and other terms implied by statute or common law are to the fullest extent permitted by law, excluded from the Agreement.

7.3. Nothing in this Agreement excludes or limits the liability of the Company

- for death or personal injury caused by the Company's negligence; or
- for fraud or fraudulent misrepresentation.

7.4. Subject to clauses 7.2 and 7.3:

- the Company shall not in any circumstances be liable, whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
  - loss of profits; or
  - loss of business; or
  - depletion of goodwill; or
  - loss of opportunity or similar losses; or
  - loss of anticipated savings; or
  - loss or corruption of data or information including Customer Data; or
  - any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; or
  - any claim made against the Customer by a third party that does not flow from a breach of this Agreement by the Company.
- the Company's total liability in contract, tort (including negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the subscription price paid for the Service by the

Customer in the twelve months preceding the month in which the Company's liability arises.

## 8. Changes to the Service

8.1. The Company shall be entitled to discontinue, alter, modify, expand, improve, maintain, repair, suspend, disconnect or otherwise change the Service as necessary given 30 days' notice to the Customer via the email address provided by the Customer.

## 9. Suspension

9.1. The Service may be suspended, or part suspended, by the Company without notice and without prejudice to the company's rights of termination under clause 10 in the event of the following:

- Failure by the Customer to make any payment to be made to the Company on its due date for payment.
- If the Customer does or suffers anything to be done which jeopardises the Service or any network to which the Customer is from time to time connected.
- If the Customer's credit limit has been exceeded or if the Customer is otherwise in breach of these Conditions.

9.2. No such suspension shall affect the liability of the Customer to pay charges and other amounts to the Company and, without limitation, the monthly subscription charge will continue to accrue. During suspension the Company reserves the right to refuse to release the Customer Data.

## 10. Term and Termination

10.1 This Agreement commences at the start of the first Subscription Term and continues until terminated by the Customer or Company in accordance with the clauses below. At the end of a Subscription Term the Agreement automatically continues for a further Subscription Term, equal in duration to the expiring Subscription Term, unless terminated in accordance with this Clause 10.

10.2. The Customer may terminate this Agreement at the end of any Subscription Term by giving not less than 30 days' written notice to the Company.

10.3. The Company may terminate this Agreement:

10.3.1. at any time and without notice if the Customer commits any breach of this Agreement including, but without limitation, non-payment of any subscription charges; or

10.3.2. by at least 30 days' written notice to the customer; or

10.3.3. with immediate effect if bankruptcy or insolvency proceedings are brought against the Customer, or an arrangement with creditors is made, or a receiver or administrator is appointed over any of the Customer's assets, or the Customer goes into liquidation, or a creditor takes possession of any of the Customer's assets; or

10.3.4 at any time without notice if the Customer is on a free of charge package where there has been no activity on the account for a minimum period of six months.

10.4. The Company will delete the Customer Data sixty days following termination of this Agreement.

10.5. With the exception of termination under 10.3.2 above no refund of subscription charges paid will be made to the Customer upon termination of the Agreement. If the Company terminates the Agreement under 10.3.2 the Customer will be credited the amount of any unused subscription paid for by the Customer at the date on which the termination comes into effect.

10.6. Upon receipt by the Company of Notice of Termination, all invoices, including the termination invoice, will become due for immediate payment.

10.7. Upon termination, the provision of the Service shall immediately cease, and the Customer shall:

- pay all outstanding Fees and charges due under the Agreement
- within fourteen (14) days export at the Customer's own cost any Customer Data from the Service using the provided functionality.
- return to the Company any materials and Restricted information belonging to the Company.

10.8. Termination of the Agreement shall be without prejudice to any pre-existing liability of the Customer and shall not affect any right of the Company to recover damages or pursue any other remedy in respect of any breach by the Customer of the Agreement.

## 11. Notices

11.1. Any notice under or in connection with this Agreement shall be given in writing in the following manner:

- a. by leaving it at or sending it first class post to the relevant address given in the Agreement or to such later address as the recipient may have notified to the other party in writing for that purpose and it shall be deemed served, if left at the relevant address, on the day upon which it was left if prior to 4:30pm or otherwise on the following Working Day and, if sent by post, on the second Working Day after the date of posting;
- b. if sent by email:
  - i. to the Company - to [legal@ipresent.com](mailto:legal@ipresent.com), or
  - ii. to the Customer - to the latest email address notified to the Company, and it shall be deemed to have been served at the time shown on the sent email concerned.

## 12. Expenses of the Company

12.1. The Customer shall pay to the Company all costs and expenses (so that any legal fees shall be based on an indemnity basis) incurred by the Company in enforcing any of the terms of this Agreement or exercising any of its other rights and remedies under this Agreement, including (without prejudice to the generality) all costs incurred in tracing the Customer in the event that legal processes cannot be enforced at the address last notified to the Company.

## 13. Invalidity

13.1. If the terms of this Agreement or any of them shall be adjudged for any reason to be void, unenforceable or ineffective but would be adjudged to be valid effective and enforceable if part of the wording were deleted or a provision were reduced in scope this Agreement shall continue with such modifications as may be necessary to make its provisions (or if such be the case its remaining provisions) valid effective and enforceable.

## 14. Confidentiality

14.1. Each party hereto undertakes to the other that it shall keep, and shall procure that its directors and employees shall keep secret and confidential and shall not use or disclose to any other person any information or material of a technical or business nature relating in any manner to the business, products or services of the other party which the first party may receive or obtain in connection with or incidental to performance of the Agreement, provided that:



- the first party shall not be prevented from using any general knowledge, experience and skills not treated by the other party as confidential or which do not properly belong to the other party and which the first party may have acquired or developed at any time during the Agreement;
- the first party shall not be prevented from using the information or material referred to above to the extent such information or material comes into the public domain otherwise than through the default or negligence of the second party; and
- notwithstanding the above, either party shall have the right to communicate any information concerning the other party to any Government department or body or other authority established by statute or under subordinate legislation, where such information is required by law.

## 15. Assignment/Sub-Contracting

15.1. Neither party shall assign or transfer any of its rights or obligations under this Agreement save that the Company may assign such rights or obligations to an associated company within the meaning of Section 25 of the Corporation Taxes Act 2010.

15.2. The Company shall be entitled to sub-contract all or part of its obligations to provide the Service provided that the Company shall remain responsible to the Customer for performance of such obligations.

## 16. Miscellaneous

16.1. The Company and the Customer acknowledge and agree that this Agreement shall not establish or constitute any relationship of partnership, joint venture, employment, franchise or agency between the parties. Neither party will have the power to bind the other without the other's prior consent in writing.

16.2. Any typographical, clerical or other error in any sales literature, marketing materials, quotation, price list or other document issued by the company or contained on any page of the Company's website shall be subject to correction without any liability on the part of the Company. For the avoidance of doubt, the Company's brochure and other sales literature or marketing materials (either appearing on the Company's website or in printed form) are not incorporated into and do not form part of this contract.

16.3. The Customer agrees that the Company may refer to the Customer (with relevant description of the Customer's business) in any of the Company's marketing materials or on the Company website. The Customer hereby grants the Company a limited licence to use any Customer trade names and trademarks solely in connection with such marketing.

16.4. Except as expressly provided, the parties do not intend any term of this Contract to be enforceable pursuant to the Contracts (Rights of Third Parties) Act 1999.

16.5. The allowance of time or the failure or delay of the Company to enforce any part of the Contract shall not affect or waive the Company's rights to enforce it at a later date.

16.6. The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency and personal data will be processed by and on behalf of the Company in connection with the Service.

16.7. The Customer acknowledges that in providing the Service, the Company may place cookies or other local shared objects on Users' devices.

## 17. Variation

17.1. The Company reserves the right to vary these Conditions time to time or as a result of changes required by its insurers, new legislation, statutory instruments, Government regulations or licences.

## 18. Law and Arbitration

18.1. This Agreement is to be construed in accordance with the laws of England to the jurisdiction of whose courts the parties agree to submit.

18.2. If any dispute arises in connection with this agreement, directors or other senior representatives of the parties with authority to settle the dispute will, within 5 Working Days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.

18.3. If the dispute is not resolved at that meeting, the parties will attempt to settle it by mediation in accordance with the CENTRE for Effective Dispute Resolution (CEDR) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing (ADR notice) to the other party to the dispute requesting a mediation. A copy of the request should be sent to CEDR Solve. The mediation will start not later than 10 Working Days after the date of the ADR notice.

18.4. Neither party may commence any court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated, or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.

## 19. Data Protection

19.1 Customer Instructions. Customer appoints Company as a processor to process personal data provided by Customer (of the types and category set out in the Schedule to this Agreement) on behalf of, and in accordance with, Customer's instructions as set out in the Agreement and this Agreement, as otherwise necessary to provide the Service, or as otherwise agreed in writing ("Permitted Purposes"). The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Customer Data comprising personal data to Company for the duration and purposes of the Agreement. Company agrees not to access or use personal data provided by Customer, except as necessary to maintain or provide the Service, or as necessary to comply with the law or other binding governmental order.

19.2 Technical and Organisational Measures. Company shall ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting personal data, ensuring confidentiality, integrity, availability and resilience of its systems and services, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).

19.3 Assistance with compliance. Company shall assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under Applicable Data Protection Law with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators.

19.4 Data Subject Rights. As part of the Company's Service, Company undertakes to provide Customer with a number of self-service features, including the ability to delete and amend Customer's Personal Data, which may be used by Customer to assist in its obligations under Applicable Data Protection Law with respect to responding to requests from data subjects.

19.5 Confidentiality Obligations of Company Personnel. Company will ensure that any person it authorises to process the Customer Data comprising personal data shall protect such personal data in accordance with Company's confidentiality obligations under the Agreement.



19.6 Return or Deletion of Customer's Personal Data. Following the termination date, Company shall destroy or otherwise dispose of any or all of the Customer's Personal Data in its possession within 60 days (except where Company is required by law to keep a copy or has legal grounds to do so including legitimate interests) unless Company receives, prior to deletion, a written request for the provision to the Customer of a copy of the then most recent back-up of the Customer's personal data held by Company. If Company receives such notice, it will use reasonable endeavours to provide that copy to the Customer within 10 business days after the date of notice.

19.7 Security Incident Reporting. If Company becomes aware of any accidental, unauthorised or unlawful destruction, loss, alteration, or disclosure of, or access to personal data provided by Customer (a "Security Incident"), Company shall notify Customer promptly and provide Customer promptly with a detailed description of the Security Incident and the identity of each affected data subject, with periodic updates, and any other information Customer may reasonably request in relation to such Security Incident.

19.8 Subcontracting. Customer consents to Company engaging third party sub-processors to process Customer's Personal Data for Permitted Purposes provided that:

19.8.1 Company imposes data protection terms on any sub-processor it appoints that require it to protect the Customer's Personal Data to the standard required by Applicable Data Protection Law; and

19.8.2 Company remains liable for any breach of this Agreement that is caused by an act, error or omission of its sub-processor.

19.9 Transfer of data outside the EEA. Company shall not transfer personal data outside the EEA unless it has complied with its obligations under Applicable Data Protection Law in ensuring adequate safeguards in relation to such transfer.

19.10 Audit. Company shall maintain complete and accurate records and information to demonstrate its compliance with this clause 19 and allow for audits by the Customer (or the Customer's designated auditor) solely for the purpose of checking compliance with this Agreement, provided that it is given reasonable notice of such audit, such audit is conducted in a manner so as not to interfere with Company' day to day business operations, and such audit is at Customer's cost.

## 20. Other Printed or Standard Conditions

20.1. The Service is provided on the foregoing conditions which constitute the entire Agreement to the exclusion of any other terms and conditions and no terms and conditions contained in any document sent by the Customer to the Company shall be of any effect with respect to the Agreement unless expressly accepted by a duly authorised officer of the Company in writing.

20.2. The Customer acknowledges that the Customer has not relied on and shall not be entitled to rescind the Agreement or to claim damages or any other remedy on the basis of any representation, warranty, undertaking or statement (including any representation made by or on behalf of the Company in relation to the Service which has induced the Customer to enter into the Agreement with the Company) which is not either set out in this Agreement or reduced to writing and expressly agreed by the Company in writing as forming part of this Agreement.

## Schedule

### 1.1 Nature and purpose of processing

To provide the services as described in the Agreement.

### 1.2 Duration of the processing

For as long as is necessary to provide the services under the Agreement.

### 1.3 Categories of Data Subject

Customer and its end-users, contacts of Customer and suppliers, or as specified in the Agreement

### 1.4 Types of personal data

*Personal data including the following:*

Identity Data including first name, maiden name, last name, username or similar identifier, marital status, title, date of birth, gender, and social media accounts.

Contact Data including billing address, delivery address, email address and telephone numbers.

Financial Data including bank account and payment card details.

Transaction Data including details about payments to and from customers and other details of services have purchased from customers.

Technical Data including internet protocol (IP) address, browser type and version, time zone setting and location, browser plug-in types and versions, operating system and platform, device model and other technology on the devices use to access Company's website or software (or its customers).

Profile Data including username and password, purchases or orders made, and interests, preferences, feedback and survey responses.

Usage Data including information about how Customer and end-users use Company's website and services (or its customers).

Marketing and Communications Data including Customer and end-user preferences in receiving marketing from Company and its customers and third parties and their communication preferences.

Personal Data collected by the end users of Company's software.

Personal Data contained within resources uploaded by end users of Company's software (including PowerPoints, PDF's, videos etc).