Novtel®

Rental Software Specialists

0861 66 88 35 (RSA)

+27 (0)44 695 4886 (International)

Hartenbos, South–Africa

Company Reg. 2018 / 338748 / 07

VAT No. 4360 1614 51

NOVTEL SERVICE LEVEL AGREEMENT (SLA)
INCLUDING TERMS AND CONDITIONS OF USE (2024 - V2)

Content

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1. DEFINITIONS

a) **"the Company"** means Novtel Software, a division of Novtel George Pty (LTD) Registration number 2007/020275/23;

b) **"agreement"** means the agreement as set out in this document together with any appendices hereto and referred to as "The Novtel SLA";

c) **"initial registration"** means the initial supply and registration of the product and documentation;

d) **"support options"** means (1) the all-inclusive fee for all online and telephone support services; or (2) the pay-as-you-go option for online and telephone support referred to in the price list;

e) **"monthly fee"** means the monthly charge as set out in the price list;

f) **"documentation"** means the user manual and any other related paperwork supplied by the Company or its authorized dealer, which may or may not be related to the Product;

g) **"product"** means the Products listed in the price list;

h) **"working hours"** means the hours of 08h00 to 17h00 on a Monday to Friday, excluding all public holidays;

i) **"effective date"** the date of acceptance of this agreement by the Company;

This agreement shall be construed and interpreted in accordance with the laws of the Republic of South Africa and phrases and words defined here shall apply in the remainder of this agreement.

When the Customer subscribes to the Support options offered by Novtel, the Company will issue a reference number and authorisation code to the Customer.

By using the reference number and authorisation code to access the software Product and support options offered by Novtel, the User will be signifying their acceptance of these terms and conditions of use, which is a binding agreement between the Company and the Customer.

2. LICENSE

a) The Customer hereby agrees to comply with the License Agreement pertaining to the product and documentation as specifically recorded in the product or documentation.

b) The Customer is granted a non-exclusive, non-transferable license to use the products and documentation.

c) The monthly Software License will provide the Customer with:

   i. A right of use for a period of one month, from date of installation;

   ii. A warranty that the software will perform in accordance with the product manuals, brochures and what we have in good faith led you to believe;

   iii. Both the right to use license and the warranty, will automatically be extended monthly;

   iv. The monthly license cost will escalate annually in line with the terms set out in section 3 of this agreement.

3. FEES AND PAYMENT

a) The Customer shall pay to the Company all initial amounts due in terms of this agreement in full prior to the commencement of the Agreement;

b) The Customer shall pay to the Company all monthly amounts due in terms of this agreement, starting on the 1st day of the month following implementation, via debit order made in favour of Novtel cc;

c) The Company shall be entitled to increase the agreed quoted fees on the 1st of March each year. Annual price increases will be in line with the Consumer Price Index (CPI) of the Republic of South Africa. Details of such increases will be published on the Company's website.

d) The Company shall pay to the Company ad-hoc amounts due for support and training, as invoiced per the accepted Novtel Support and Training Policy.

e) Failure to pay any amount due in terms of the agreement on the due date, shall entitle the Company, without prejudice to any other remedies, to charge interest on a daily basis at 2.5% (two comma five percent) per month from the due date of payment to the actual date of payment.

4. TERM

This agreement shall commence on the effective date and shall continue until the end of the initial term.

If notice of termination is not given at least 90 days prior to the end of the initial term, this agreement shall automatically be renewed for a further period of twelve months and the provisions above shall, mutatis mutandis, apply in respect of such 12 (twelve) month period.

The Company may terminate this agreement summarily including access to support and software if:

a) the Customer breaches any terms of this agreement and fails to remedy same within 10 (ten) days of receipt of written notification from the Company;

b) the Customer fails to pay any amount due in terms of this agreement on the due date;

c) the Customer commits an act of insolvency.

In the event that this agreement is terminated for any of the reasons mentioned in paragraph 4, the Customer shall not be entitled to a refund of any amount paid in terms of this agreement. In the event that this agreement is terminated and the Customer wishes to enter into a new agreement, the Customer will be charged such amounts as would be applicable to a new agreement.

5. COMPANY OBLIGATIONS

The Company undertakes:

a) That the Company is the owner of the source code and will employ its own team of software developers;

b) To continually improve the software; and at its sole discretion, reserves the right to issue new versions of the product and documentation;

c) To make package upgrades available for download at no cost, from their website;

d) To keep track of changes in OS (Operating Systems) Software systems, i.e. Windows; and integrating software products, i.e. Sage Accounting software;

e) To update the system in line with international and local laws and requirements;

f) To provide support to the Customer's IT departments in-house or outsourced;

g) That the Company has legacy and contingency plans in place to ensure continued support to the Customer;

h) To notify the Customer's Administrator/Super User of new features, critical patches etc. via an automatic web service;

i) To use reasonable endeavours to support the product regarding the Support Options selected by the customer during the term of this agreement by providing telephonic, online and e-mail support during working hours;

j) That the Company shall only be responsible to provide support for the product on the current versions of the product, and the most recent version of the product in existence prior to the current version of the product;

k) To endeavour corrections, updates and releases to the product at such times as it in its sole discretion shall determine. The Customer shall be responsible for the installation of corrections, updates and releases to the product and for ensuring that its' staff has the capability of carrying out such installations. Should the Customer fail to install such systems correctly or at all in accordance with the Company's instructions, the Company or Novtel Approved Partner shall have the right to charge for services rendered in this regard. Corrections, updates and releases to the product arising as a result of a changes in database used by the product are specifically excluded from this agreement;

l) If the Company cannot affect any correction online or by telephone, the Company or a Novtel Approved Partner upon receipt of written authorisation from the Customer, may in its sole discretion attend at the Customer's premises to affect the correction, in which event such attendance together with travelling time and expenses shall be charged to the Customer by the Company or a Novtel Approved Partner;

m) That the Company shall not be responsible for and shall not be obliged to correct errors which result:

    i. from failure of equipment or other software, including, but not limited to machine operating software, third party applications not developed by the Company and which are not covered by this agreement including faults in electrical supply and operator error from whatever cause or caused by cable or connector malfunction or breaks;

    ii. from environmental conditions including, but not limited to, conditions associated with humidity and air-conditioning;

    iii. from accident, negligence, misuse or default by the Customer or any third party or due to a force majeure;

    iv. from failure of fixed or removable storage media;

    v. from any version of the products other than the current version of the product;

n) That any time spent by the Company investigating an error caused by any of the above shall be charged to the Customer as an additional cost at the Company's then current rates of service, and travelling on a time and material basis.

6. INTELLECTUAL PROPERTY

a) The Company retains the right, title and interest in ownership of the copyright and all other intellectual property rights in the product and the documentation;

b) The Customer acknowledges that nothing contained in this agreement shall give the Customer any right, title, or interest in the intellectual property.

7. LIABILITY

a) The Company makes no warranties and representations whether express or implied in respect of the products, the disks or the documentation attaching to the product and in no event will the Company be liable for direct, indirect, special, incidental or consequential damages arising out of the use or inability to use the products or documentation even if advised of the possibility of such damage.

b) In addition, the Company specifically does not warrant or guarantee or make any representations concerning the use of or the result of the use of the product and the product is hired and used at the sole risk of the Customer. Any claim which the Customer may have against the Company shall be limited to the Company either replacing or repairing the product at the sole discretion of the Company.

8. THE CUSTOMER'S OBLIGATIONS

The Customer undertakes:

a) To keep master copies of the products and documentation in a safe place at its principle place of business;

b) To assign a contact person to deal with all correspondence and communication with the Company in respect of this agreement;

c) To assign a key user to train and support in line with the Company's 'trainer the trainer' principle;

d) To train staff by acquiring the training options available to them; and select only suitably trained staff for operation of the product;

e) To institute any new releases or error fixes and versions of products in line with the Company's recommendations; and to keep machine operating software up to date and to pay all costs associated therewith;

f) To provide internet access for effective online support, training, upgrade notification and deployment;

g) To provide the required infrastructure, if the system is installed or hosted internally by the Customer;

h) Not to reverse engineer, dissemble, or translate, decode or modify the product;

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i) Not to loan, rent, assign, sub-lease or in any other manner or form, transfer the product to any unauthorised third party;

j) To comply with the registration requirements, including the initial registration of the product, which requirements the Company will determine from time to time and in its absolute and sole discretion;

k) To notify the Company of any changes to the bank account details listed in the Debit Order Details contained in this agreement;

l) To pay to the Company an administration fee of R250.00 for each and every instance that a debit order payment is rejected by the Customer's bankers;

m) To ensure that the Product is suitable for the purpose intended;

n) To run daily data backups and keep a minimum of one separate backup of your current data of a stand and frequency to allow the Customer to recover information without any undue loss of staff time;

o) To notify the Company of any alleged defect within a period not exceeding 5 (five) days from the date alleged defect becomes apparent.

p) To be charged for the use of new/additional software product components, add-on modules or products, as applicable.

9. NOTICES

a) The parties choose as their domicilium citandi et executandi the address set out on the front page of this agreement for the purpose of serving any Documents or legal process in regard hereto.

b) Any notice given and any payment made by a party to the other ("the addressee") which:

    i. is delivered by hand during the normal business hours of the addressee at addressee's domicilium for the time being shall be presumed, unless the contrary is approved by the addressee, to have been received by the addressee at the time of delivery: provided that if the delivery is effected by or on behalf of the Customer at the Company's domicilium, the presumption shall only apply as regards to the Company if proof of receipt is obtained by the party effecting such delivery and duly produced as may be required to prove such delivery;

    ii. is posted by pre-paid registered post from an address within the applicable country to the addressee at the addressee's domicilium for the time being, it shall be presumed, unless the contrary is proved by the addressee, to have been received by the addressee on the seventh day after the date of posting.

10. GENERAL

a) This agreement constitutes the whole agreement between the parties. No variation, addition or cancellation of this agreement or any waiver of any rights shall be of any force unless reduced to writing and signed by the parties.

b) No indulgence, leniency or extension of time which the Company may show to the Customer shall in any way prejudice the Company or preclude the Company from exercising its rights in the future.

c) This agreement and all matters or disputes arising there from or incidental thereto shall be governed and construed in accordance with the laws of the Republic of South Africa.

d) The Company's preferred medium of correspondence and communication with the Customer will be by means of email. The Customer is responsible for supplying the Company with a valid email address and notifying the Company of any changes in this email address from time to time.

11. ACCEPTANCE OF AGREEMENT

Only upon the acceptance of this agreement, the Novtel support & training policy and the quotation issued by the Company, does Novtel accept the appointment as software Service Provider by the Customer.

Acceptance of this agreement is stipulated and signed for by a duly authorised person on behalf of the Customer on the **Novtel quotation documen**t issued; and must be submitted to sales@novtel.com.