

# Terms of Business

## Fife IT Support



### Fife IT Support Terms and Conditions

The terms and conditions set forth below are a legal agreement between you (the Client) and Fife IT Support and its associated brands & businesses. These terms and conditions shall apply to all goods and services supplied to the Client by Fife IT Support.

By accessing these terms and conditions, browsing this website or accepting a service proposal from us, the Client acknowledges that they have read, understood and agree with the terms and conditions stated including exclusions and disclaimers in respect of liability and loss arising from the supply of goods and services to you the Client.

Fife IT Support is a trading name of Ross Dalgetty

These terms and conditions do not affect the Clients statutory rights.

#### Commission Agreement

By commissioning Fife IT Support, you are entering into a contract with us. The following terms and conditions set forth are our obligations to you and what you are agreeing to.

#### Terms and Terminology

In these terms and conditions, references such as "our", "we", "us" and "their" refers to Fife IT Support.

The use of headings in these terms and conditions is for convenience only and shall not affect the interpretation of the terms and conditions under the headings.

#### Authorisation

By commissioning Fife IT Support, the Client authorises the inspection and evaluation of the equipment to determine the nature of the repairs required and provide an estimate of repair cost and the time scale involved. The evaluation is free of cost to the Client and no work beyond the evaluation will be charged without explicit Client approval.

Fife IT Support when commissioned to carry out repairs also have the necessary permission from the Client to replace components with new or used devices of a similar or better design and capability.

The Client also authorises Fife IT Support, its employees and agents to receive and transport equipment to and from the Clients premises to the offices of Fife IT Support.

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### Repair Order Process

To process your equipment repair request we require the following information as a minimum:

- Name
- Address
- Landline contact number
- Mobile contact number
- Email address
- Computer passwords etc.

We may use your details for marketing purposes, however, we will not pass your details to any third party.

### Client Legal Rights

The Client is the legal owner of the computer equipment handed over to Fife IT Support for repairs. It is also acknowledged that all data stored on the computer equipment is the Clients property. Fife IT Support is permitted to access any data without the explicit permission of the Client, in order to deliver the required support service.

### Payment

Payment is due in full upon completion of a successful repair, prior to the release of the equipment whether shipped to the Clients address or picked up from Fife IT Support place of business unless by special previous arrangement.

If credit terms are approved, payment in full must be made within 30 days from the date of the invoice. Beyond the 30 days, we have the right to add an additional 6% penalty of the total invoice for each week of non-payment.

Overdue payments may place the Client on credit hold. This means no further services, repairs or equipment will be supplied or made available to the Client until all previous payments are paid in full. Fife IT Support may at its discretion withdraw credit facilities at any time if the Client is found to be in breach of these terms and conditions.

Fife IT Support operate a 1 month in advance payment system for monthly services. Initial payment is required by any method, followed by a monthly direct debit being setup with GoCardless. Payment of the 1<sup>st</sup> month must be made prior to the commencement date.

We will accept payment by cash, all major credit and debit cards and cheque.

Card Payments are processed via PayPal Here™

GoCardless are our direct debit provider. – [www.gocardless.com](http://www.gocardless.com)

Refunds can be by cheque or refunded to the credit or debit card used when paying for the service or repair.

In circumstances when goods are supplied, you will only own these goods when payment in full is received.

Computer parts, hardware, and software that need to be specially ordered must be paid for in advance.

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### Estimate for Repairs & Services

Upon initial inspection of the equipment, an estimate will be provided for the necessary repairs or service. All quotes and any subsequent charges are in sterling.

For work estimates above £100 a deposit of 50% for goods and services will be required prior to the commencement of the works.

The acceptance of an estimate, quotation or service proposal for a service or repairs and instruction to proceed by the Client either verbally by telephone or in person, or in writing (including email) shall be deemed acceptance of these terms and conditions.

### Availability of Goods and Services

Goods and services are subject to availability. If for whatever reason we are unable to supply any goods or services, we will not be held liable for any compensation or damages as a result of the non-performance.

In respect of monthly IT Support Services, Unused time is not accumulative. Unused time does not transfer from month to month. Maintenance Services time is strictly month to month.

### Booking a Service

You can book a service by either calling or requesting a repair service via email and social media.

### Home or Business Call Out Requests

If you require a home or business call out this will incur additional charges which will be conveyed in the quotation for the repairs. Home or business call outs are subject to availability of suitable engineers and allocated on a first come, first serve basis.

Call out requests will be confirmed by either telephone or by email.

If a home or business call out is booked and access is not gained at the agreed allotted time the Client will be subject to a charge equivalent to 1 hour our standard hourly rate.

In the event when we cannot make the appointment at the agreed time due to factors beyond our control you will be contacted in advance advising you of the situation and re-schedule an appointment as soon as reasonably possible at a mutually convenient time. If you wish, you have the right to cancel your service or repair request. A full refund will be offered for any payments made in advance.

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### Cancellation of a Call Out Service Request

You may cancel an agreed home or business call out at any time up to 2 hours prior to the agreed appointment time.

Cancellations made in sufficient time will be entitled to a full refund of any funds paid in advance.

If you cancel or change an appointment within 2 hours prior to the agreed time, the Client will be subject to a charge equivalent to 1 hour our standard hourly rate.

Service or repair cancellations can be communicated by any of the following:

- Email
- Text message
- Telephone

If no one was available when an engineer calls to the Client's premises, a note will be left confirming the call out. A new appointment can be re-scheduled, however, the Client will be subject to a charge equivalent to 1 hour our standard hourly rate in addition to the costs of the service or repairs.

### Delivery of Goods and Services

At the time of the order, we will endeavour to confirm a time scale for the service or repairs. There may be instances when the delivery of the service cannot be achieved due to circumstances beyond our control. All delivery times indicated should be considered approximate and we will not be held liable for compensation or damages due to a late or non-delivery.

If equipment is delivered back to the Client in a damaged or faulty state, you must inform us within 24 hours of the fault. We will arrange collection and repairs at our cost. If you fail to inform us within 24 hours, we shall have no liability for the goods damaged on delivery. This does not however affect your statutory rights.

### Our Collection Policy

Any equipment left with Fife IT Support and unclaimed for 30 days, will be disposed of to recover our costs incurred while carrying out a service or repair. After this period, Fife IT Support shall have no liability to the Client or any third party.

### Non Compatibility Software

The Client understands and accepts that some software applications may no longer work correctly after a repair has taken place. This may be due to the installation of the latest hardware or software. It is therefore the Client's responsibility to reinstall or reconfigure these applications.

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### Backing Up Data

Fife IT Support will make every possible effort to preserve the Client's data and files, however it should be noted that there are NO GUARANTEES whatsoever that the Clients data and files will remain intact after the repairs.

IT IS THEREFORE THE CLIENT'S SOLE RESPONSIBILITY TO ENSURE THAT ALL THE DATA AND INFORMATION STORED ON THE COMPUTER EQUIPMENT REQUIRING REPAIRS IS APPROPRIATELY BACKED UP TO OTHER STORAGE DEVICES PRIOR TO HANDING OVER FOR REPAIRS.

Charges will be incurred if Fife IT Support has to perform a lengthy backup procedure to protect the Clients own data in order to complete the repairs.

We cannot be held responsible for the following during the repairs:

- Loss or corruption of data, files, information or records;
- Any loss of business goodwill
- Any losses attributed to the interruption to business activity while equipment is out of service for repairs
- Failure by the Client to follow our reasonable recommendations, instructions and advice to back up data
- Any losses you may suffer arising from failure to use anti-virus software
- Any loss considered to be unforeseeable
- Damage resulting from viruses or other malicious software that may have been transmitted during servicing or repairs and therefore escaped detection

Fife IT Support will not be liable for any damage caused to other equipment by parts supplied following any repair.

### Confidentiality of Data Stored on Computer Equipment

Fife IT Support, its Employees and Agents agree not to disclose to a third party any information or data files stored on or recovered from the Client's equipment during the service or repair unless required to do so by law.

### Data Destruction

The Client acknowledges that any hard drives or other medium passed to Fife IT Support for data destruction will not be recoverable in any circumstances.

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### Limited Liability

Whilst Fife IT Support shall make every effort to preserve the integrity of equipment left for repair, the Client agrees not to hold Fife IT Support liable for any accidental damage to the said equipment including but not limited to – casing cracks, scratches, deformations, theft of the equipment etc.

Additionally, Fife IT Support cannot be held liable for any loss of data, loss of revenue or profits, or any incidental, contingent, or consequential damages, howsoever caused either prior, during a service or upon completion of a service including the use of remote support software.

Fife IT Support liability of any kind with respect to services undertaken, including any negligence on its part, shall be limited to the contract price for the services provided.

Furthermore, should Fife IT Support, its employees or agents offer any advice or recommendations to a Client as to the use of computer equipment, storage, use of software applications confirmed by whatever means is used entirely at the Clients own risk and accordingly Fife IT Support shall not be held liable for any such losses associated with such advice or recommendations.

### Warranties

Fife IT Support provides a 30-day warranty on labour only repairs carried out on computer equipment requested by the Client. Fife IT Support makes no warranty for data or computer files either expressed or implied. Fife IT Support disclaims any data warranty of any kind. If the same problem re-occurs within 30 days of the original repair, Fife IT Support will undertake the repair again without charge. However, charges will be incurred should additional parts are required. This warranty excludes faults caused by viruses or software issues.

All computer parts supplied by Fife IT Support are new and come with a 1-year manufacturer's warranty from the date of the repair. In some instances, we may offer second hand or used parts at a reduced cost. The Client will be consulted if they are willing to accept second hand or used parts prior to fitting. No warranty will be provided with second hand or used parts.

Any warranty offered will become invalid if the manufacturers marked label is removed or tampered with in any way from the parts installed during a repair.

Parts are only covered under warranty that fail due to manufacturing defects for the said parts and confirmed by the component manufacturer. Should the part fail because of mishandling of the computer equipment or inadequate subsequent servicing or failure from "fair wear and tear" the warranty becomes invalid.

Damage to a computer system or its components supplied by Fife IT Support under a repair contract caused by a power surge or spikes, including but not limited to mains power and telecoms connections or other unspecified sources e.g. voltage fluctuation, amperage fluctuation, water ingress are not covered under the warranty.

Furthermore, the warranty does not cover for any loss or damage due to negligence, mishandling, accidents, theft, water flooding, war outbreak, electrical storms, fire outbreak, earthquakes, or any other act of God.

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### **Manufacturers Warranties**

During the performance of our services, we may affect a manufacturer's warranty validity. It is the Client's responsibility to determine the consequences of our services on any manufacturer's warranty and take the appropriate action necessary.

### **No Fix No Fee Policy**

Fife IT Support's "No Fix - No Fee" policy means that if an Engineer cannot fix the problem with the equipment or does not possess the necessary technical skills, knowledge or ability to resolve the problem or effect the repair, then in this instance there is a "No Charge" for the services provided to the Client. It is at our Engineers discretion whether or not a repair is possible.

It is agreed however that we must be given sufficient time and access to the equipment to diagnose the problems.

However, if the Engineer is able to resolve the problem but is prevented from doing so by the Client instructing the Engineer not to proceed with the service or repair, then in this instance, the Client will be charged for the time spent up until that point (a minimum of 2 hours at the standard hourly rate).

Additionally, if the Engineer is able to resolve the problem but prevented from doing so because the Client does not possess the required accessories, the CD for third party software or software Product Key, then in this instance the Client will be charged for the time spent up until that point (a minimum of 2 hours at the standard hourly rate).

Furthermore, if the Engineer provides a clear and precise diagnosis of a failed component within the equipment, however the Client decides not to proceed with the repair or replacement of the said component, then the Client will be charged for the time spent up until that point (a minimum of 2 hours at the standard hourly rate).

This policy does not apply to work performed to recover data, solve computer virus, malware or spyware issues or in cases in which the equipment was affected by a lightning strike.

### **Misquote**

If we provided a quotation and subsequently discover that the quote is incorrect, we reserve the right to cancel the order or service and return your equipment without any repairs carried out. We will contact you at the earliest convenience to advise you of the situation and you will be given the option to proceed based on a new revised quotation or the order can be cancelled.

If you choose to cancel the order, any monies paid in advance for the repairs will be refunded in full.

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### **This Agreement**

All contracts formed between Fife IT Support and the Client shall be governed by and construed in accordance with and governed by the laws of Scotland.

Each party agrees that any disputes not resolved by the normal complaints procedure will be submitted to the court within the jurisdiction Scotland.

### **Complaints Procedure**

Complaints should be made in writing by email to [mail@fifeitsupport.co.uk](mailto:mail@fifeitsupport.co.uk), we aim to respond to all complaints within 48 working hours.

### **Correctness of Information and Disclaimer**

Although every effort is made at all times to make sure the information contained in our website and in our documentation provided is accurate, current and reliable information, it should be recognised there is a possibility of errors in the information contained within. Fife IT Support expressly denies any warranty of the accuracy and reliability of any information provided in their website or documentation. Fife IT Support shall not be held liable for any losses caused by anyone's reliance upon the accuracy and reliability of the information contained within.

We reserve the right to amend the content of our website and or our documentation at any time without prior notice.

We cannot accept any responsibility for other websites we do not control, which may be linked to or from our website.

It should be noted, that services and or products indicated in this website might be altered, modified or discontinued at any time without prior notice. It should also be noted that published fees for services, repairs and or products are subject to change without prior notice.

Fife IT Support has the right, at their discretion, to refuse the supply of goods and services.

Fife IT Support reserves the right to change their terms and conditions at any time without prior notice.



### Monthly Website Maintenance Agreement

This Maintenance Agreement ("Agreement") is hereby entered into between you, your employees and agents (collectively "Customer") and applies to the purchase of all Monthly Website Maintenance Services (hereinafter collectively referred to as "Maintenance Services") ordered by Customer.

**1. Term and Termination** – This Agreement shall be effective as of the time frame Customer signs up for Maintenance Services. This Agreement may be terminated by either party upon written notice to the other, if the other party breaches any material obligation provided hereunder and the breaching party fails to cure such breach within thirty (30) days of receipt of the notice. This Agreement may be terminated by Fife IT Support (i) immediately if Customer fails to pay any fees hereunder; or (ii) if Customer fails to cooperate with Fife IT Support or hinders Fife IT Support's ability to perform the Maintenance Services hereunder.

**2. Maintenance Services** – Fife IT Support agrees to provide Customer with Maintenance Services as described in this Agreement. Maintenance Services include:

- Updates to text, images, and other minor changes to Customer's website pages.
- Upgrades to Customer's content management system, including plugins and themes.
- Removal of malware, spam and malicious code from Customer's website.
- Recovery of files or email from backups, if available.

**3. Fees; Limitations on Refunds and Cancellation Fees** – Customer agrees to pay Fife IT Support any and all fee(s) as billed in accordance with this Agreement. The fee(s) must be received prior to the start of any Maintenance Services. The customer further agrees that, in the event of any termination of this agreement by customer, no refunds shall be given under any circumstances whatsoever. The customer further agrees to pay upon cancellation the amount of any cancellation fees or other amounts due to Fife IT Support as provided in the agreement. Fife IT Support is hereby authorized to charge customer's credit card account or other payment mechanism for any amounts owed from time to time by customer to Fife IT Support.

**4. Customer Responsibilities** – For the purposes of providing these services, Customer agrees:

- To provide Fife IT Support with access to its web sites for creating new pages, and making changes for the purpose of providing Maintenance Services.
- To properly convey to Fife IT Support the information that needs to be changed or added.

**5. Customer Acknowledgements** – Customer understands, acknowledges and agrees that:

- Only the time as specified in the service proposal for Maintenance Services is allowed per month, billed in fifteen (15) minute increments.
- Any work that exceeds the time specified in the service proposal will be billed on the current hourly rate.
- Web page updates exclude, but are not limited to, image editing, graphic design, graphic editing, database design, database changes, programming, and search engine optimization.
- Fife IT Support has no control over the policies of search engines or directories with respect to the type of sites and/or content that they accept now or in the future. Customer's web site(s) may be excluded from any search engine or directory at any time at the sole discretion of the search engine or directory entity.
- Additional fees could be charged if the information provided has to be typed and exceeds the time specified in the service proposal.
- If changes are made by Fife IT Support according to Customer's information, and the changes are not correct, additional time to remedy the changes fall under the time specified in the service proposal.
- Unused time is not accumulative. Unused time does not transfer from month to month. Maintenance Services time is strictly month to month.

- Fife IT Support is not responsible for rewriting sentences, restructuring paragraphs, or checking for typing errors, misspellings, etc.
- Fife IT Support is not responsible for changes made to Customer's web site(s) by other parties.
- Fife IT Support is not responsible for third-party plugins that may become unusable as a result of Maintenance Services performed.
- Fife IT Support will not repair Customer's website(s) that became compromised, hacked, or otherwise defaced or infected prior to ordering Maintenance Services.
- Recovery or repair of Customer's website is not guaranteed.
- Availability of backups is not guaranteed.

**6. Additional Services** – Additional services not listed herein will be provided for a fee of £20.00 per hour. Fife IT Support is not responsible for developing new content or writing new copy for Customer. Customer will be charged an additional fee for writing content, based on the hourly rate of £35.00 per hour.

**7. Indemnification** – Customer shall indemnify and hold harmless Fife IT Support (and its subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees) from any and all claims, damages, liabilities, costs, and expenses (including, but not limited to, reasonable legal fees and all related costs and expenses) incurred by Fife IT Support as a result of any claim, judgment, or adjudication against Fife IT Support related to or arising from (a) any photographs, illustrations, graphics, audio clips, video clips, text, data or any other information, content, display, or material (whether written, graphic, sound, or otherwise) provided by Customer to Fife IT Support (the "Customer Content"), or (b) a claim that Fife IT Support's use of the Customer Content infringes the intellectual property rights of a third party. To qualify for such defence and payment, Fife IT Support must: (i) give Customer prompt written notice of a claim; and (ii) allow Customer to control, and fully cooperate with Customer in, the defence and all related negotiations.

**8. Disclaimer of All Other Warranties** – Fife IT Support does not warrant that the maintenance services will meet the customer's expectations or requirements. the entire risk as to the quality and performance is with customer. except as otherwise specified in this agreement, Fife IT Support provides its services "as is" and without warranty of any kind. the parties agree that (a) the limited warranties set forth in this section are the sole and exclusive warranties provided by each party, and (b) each party disclaims all other warranties, express or implied, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose, relating to this agreement, performance or inability to perform under this agreement, the content, and each party's computing and distribution system. if any provision of this agreement shall be unlawful, void, or for any reason unenforceable, then that provision shall be deemed severable from this agreement and shall not affect the validity and enforceability of any remaining provisions.

**9. Limited Liability** – In no event shall Fife IT Support be liable to customer for any indirect, special, exemplary or consequential damages, including any implied warranty of merchantability or fitness for a particular purpose or implied warranties arising from course of dealing or course of performance, lost profits, whether or not foreseeable or alleged to be based on breach of warranty, contract, negligence or strict liability, arising under this agreement, loss of data, or any performance under this agreement, even if such party has been advised of the possibility of such damages and notwithstanding the failure of essential purpose of any limited remedy provided herein. there shall be no refunds. Fife IT Support makes no warranty of any kind, whether express or implied, with regard to any third party products, third party content or any software, equipment, or hardware obtained from third parties.

**10. Customer Representations** – Customer makes the following representations and warranties for the benefit of Fife IT Support:

- Customer represents to Fife IT Support and unconditionally guarantees that any elements of text, graphics, photos, designs, trademarks, or other artwork furnished to Fife IT Support are owned by Customer, or that Customer has permission from the rightful owner to use each of these elements, and will hold harmless, protect, and defend Fife IT Support and its subcontractors from any claim or suit arising from the use of such elements furnished by Customer.

- Customer guarantees to Fife IT Support and unconditionally guarantees that Customer's website has not been compromised, hacked, or otherwise defaced or infected prior to ordering Maintenance Services.
- Customer guarantees any elements of text, graphics, photos, designs, trademarks, or other artwork provided to Fife IT Support for inclusion on the website above are owned by Customer, or that Customer has received permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, and permission from the rightful owner(s) to use each of the elements, and will hold harmless, protect, and defend Fife IT Support and its subcontractors from any liability or suit arising from the use of such elements.
- From time to time governments enact laws and levy taxes and tariffs affecting Internet electronic commerce. Customer agrees that the client is solely responsible for complying with such laws, taxes, and tariffs, and will hold harmless, protect, and defend Fife IT Support and its subcontractors from any claim, suit, penalty, tax, or tariff arising from Customer's exercise of Internet electronic commerce.

**11. Confidentiality** – The parties agree to hold each other's Proprietary or Confidential Information in strict confidence. "Proprietary or Confidential Information" shall include, but is not limited to, written or oral contracts, trade secrets, know-how, business methods, business policies, memoranda, reports, records, computer retained information, notes, or financial information. Proprietary or Confidential Information shall not include any information which: (i) is or becomes generally known to the public by any means other than a breach of the obligations of the receiving party; (ii) was previously known to the receiving party or rightly received by the receiving party from a third party; (iii) is independently developed by the receiving party; or (iv) is subject to disclosure under court order or other lawful process. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than as specified in this Agreement. Each party's proprietary or confidential information shall remain the sole and exclusive property of that party. The parties agree that in the event of use or disclosure by the other party other than as specifically provided for in this Agreement, the non-disclosing party may be entitled to equitable relief. Notwithstanding termination or expiration of this Agreement, Fife IT Support and Customer acknowledge and agree that their obligations of confidentiality with respect to Proprietary or Confidential Information shall continue in effect for a total period of three (3) years from the effective date.

**12. Force Majeure** – Neither party will be liable for, or will be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any causes or conditions that are beyond such Party's reasonable control and that such Party is unable to overcome through the exercise of commercially reasonable diligence. If any force majeure event occurs, the affected Party will give prompt written notice to the other Party and will use commercially reasonable efforts to minimize the impact of the event.

**13. Relationship of Parties** – Fife IT Support, in rendering performance under this Agreement, shall be deemed an independent contractor and nothing contained herein shall constitute this arrangement to be employment, a joint venture, or a partnership. Customer does not undertake by this Agreement, or otherwise, to perform any obligation of Fife IT Support, whether by regulation or contract. In no way is Fife IT Support to be construed as the agent or to be acting as the agent of Customer in any respect, any other provisions of this Agreement notwithstanding.

**14. Notice and Payment** – Any notice required to be given under this Agreement shall be in writing and delivered to the other designated party, by email. Either party may change its address to which notice or payment is to be sent by written notice to the other under any provision of this paragraph.

**15. Jurisdiction/Disputes** – This Agreement shall be governed in accordance with the laws of Scotland. All disputes under this Agreement shall be resolved by litigation in the courts of Scotland and the Parties all consent to the jurisdiction of such courts, agree to accept service of process by mail, and hereby waive any jurisdictional or venue defences otherwise available to it.

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- 16. Agreement Binding on Successors** – The provisions of the Agreement shall be binding upon and shall inure to the benefit of the Parties hereto, their heirs, administrators, successors and assigns.
- 17. Assignability** – Customer may not assign this Agreement or the rights and obligations thereunder to any third party without the prior express written approval of Fife IT Support. Fife IT Support reserves the right to assign subcontractors as needed to this project to ensure on-time completion.
- 18. Waiver** – No waiver by either party of any default shall be deemed as a waiver of prior or subsequent default of the same of other provisions of this Agreement.
- 19. Severability** – If any term, clause or provision hereof is held invalid or unenforceable by a court of competent jurisdiction, such invalidity shall not affect the validity or operation of any other term, clause or provision and such invalid term, clause or provision shall be deemed to be severed from the Agreement.
- 20. No Inference Against Author** – No provision of this Agreement shall be interpreted against any Party because such Party or its legal representative drafted such provision.
- 21. Disputes** – Customer and Fife IT Support agree to make a good-faith effort to resolve any disagreement arising out of, or in connection with, this Agreement through negotiation. Should the parties fail to resolve any such disagreement within ten (10) days, either party can give notice of termination of the service agreement.
- 22. Read and Understood** – Each Party acknowledges that it has read and understands this Agreement and agrees to be bound by its terms and conditions.