

# ***STANDARD TERMS AND CONDITIONS***

## **1. Acceptance.**

Notwithstanding the lack of a signed acceptance by the CLIENT, the CLIENT shall be deemed to have read the terms herein and agreed to be bound by them, upon first use or acceptance of any Service / Product from ATC.

## **2. Billing and Payment.**

For all support, CLIENT will pay according to service provided, and be required to schedule service calls when appropriate.

Payment for all invoices shall be made by the CLIENT within 14 days from the date of the invoice. Acceptable forms of payment shall be defined as check, cash or any credit card currently accepted by ATC for payment.

In the event of late payment, ATC shall impose a late payment charge of 1% interest. In the event of late payment extending beyond 30 days from the date of the invoice, ATC reserves the right to prevent CLIENT's access to any Service or otherwise terminate any Service or take such other actions as ATC may deem fit.

## **3. Early Termination.**

The duration of this Service is for the period stated in the Sales Quotation.

The CLIENT may request in writing to ATC for an early termination of the Service, and ATC shall have the right to accept or refuse any such request in its sole discretion. Should ATC accept the request, ATC shall have the right to impose such early termination penalties and/or other conditions as ATC deems fit in its absolute discretion, PROVIDED ALWAYS that the CLIENT shall be informed of these penalties and conditions prior to termination of the Service.

## **4. Disclaimer of Warranties and Exclusive Remedy**

ATC disclaims any and all responsibility or liability for the accuracy, content, completeness, legality, reliability, or operability or availability of information or material provided by ATC or the ATC websites. ATC disclaims any responsibility for the deletion, failure to store, misdelivery, or untimely delivery of any information or material. ATC disclaims any responsibility for any harm resulting from downloading or accessing any information or material on the Internet.

ATC makes no warranty, either express or implied with respect to any Product or Service and specifically disclaims all other warranties, including without limitation, warranties for merchantability, non-infringement and fitness for any particular purpose. ATC's sole obligation and liability for product defects or service defects shall be, at ATC's option, to replace such defective product or service or refund to CLIENT the amount paid by CLIENT therefore. In no event shall ATC's liability exceed the CLIENT's purchase price.

The foregoing remedy shall be subject to CLIENT's written notification of defect; and if defect is related to product, return of the defective product, within (30) days of purchase or service completion. The foregoing remedy does not apply to any products or services that have been subject to misuse including without limitation static discharge, neglect, accident, modification, or if damage occurs as a result of the failure of CLIENT to follow specific instructions.

## 5. Representations by ATC.

The Sales Quotation shall supercede all prior agreements made between parties. No representations made by ATC, its representatives or agents (whether orally or in writing), whether made prior to, during or subsequent to acceptance of the Sales Quotation shall have any effect unless on the Sales Quotation or otherwise accepted by the management of ATC *in writing*.

*All time billed in 15 minute increments. Phone Support time billed in 15 minute increments.*

*Onsite work billing starts when technician leaves ATC Office until return to ATC Office.*

*Normal Business Hours are defined as 8:00am CST to 5:00pm CST Monday through Friday.*

*All time billed @ 1.5 x posted or quoted normal rate when performed Before or After Normal Business Hour.*

*All time billed @ 2.0 x posted or quoted normal rate when performed on ATC Recognized Holidays.*

*Onsite work will be billed with a 1 hour minimum including travel time.*

## 6. Limitation on Liability.

Due to the nature of Information Technology (IT), ATC recommends the procurement of suitable insurance to cover such occurrences, and the use of other suitable technology to protect against and limit damage directly or indirectly caused by the use of the Services and/or Products provided under this Agreement.

CLIENT agrees that the total aggregate liability of ATC in respect of all and any legal proceedings, claims or actions brought against ATC arising out of this Agreement, the liability of ATC shall be limited to the actual price paid by the CLIENT to ATC for the specific product or service identified as defective. This clause shall not apply in the event of personal injury or death.

DUE TO THE NATURE OF INFORMATION TECHNOLOGY (IT), THE CLIENT UNDERSTANDS AND AGREES THAT NO TECHNOLOGY OR SERVICE PROVIDED CAN BE "BUG"-FREE OR DEFECT-FREE. THEREFORE, ALL PRODUCTS AND/OR SERVICES ARE PROVIDED ON AN "AS IS, AS AVAILABLE" BASIS. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NO WARRANTY, CONDITION, UNDERTAKING OR TERM, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE AS TO THE CONDITION, QUALITY, PERFORMANCE, MERCHANTABILITY, DURABILITY OR FITNESS FOR PURPOSE OF ANY PRODUCT OR SERVICE IS GIVEN OR ASSUMED BY ATC AND ALL SUCH WARRANTIES, CONDITIONS, UNDERTAKINGS AND TERMS ARE HEREBY EXCLUDED.

- (a) CLIENT undertakes to procure from all its Users of the Service / Product provided an undertaking in writing to be bound by the limitations of liability contained herein. Failure by the Client to procure the same, or failure of the Client to prevent the use of the Service and/or Product by unauthorized users shall result in the Client being liable to indemnify ATC on an indemnity basis for all compensation, loss and damage suffered by ATC resulting therefrom (less the compensation ATC shall have been liable to pay out under clause 5 of the Service Agreement had the CLIENT abided by its obligations).
- (b) Notwithstanding any other clause herein, in no event will ATC, be liable for any of the following:
  - (i) Damages for loss of data, or Software restoration;
  - (ii) Damages relating to CLIENT's procurement of substitute products or services (i.e., "cost of cover"); or
  - (iii) Indirect, incidental, special or consequential, punitive or exemplary damages (including without limitation downtime, downtime costs, lost savings, lost profits or loss of business opportunity)

## **6. Limitation on Liability. – continued.**

- (c) Due to the nature of Information technology (IT), ATC recommends the procurement of suitable insurance to cover such occurrences, and the use of technology to limit any damage directly or indirectly caused by the use of the services and/or products provided under this Agreement.
- (d) The Client agrees that the total aggregate liability of ATC in respect of all and any legal proceedings, claims or actions brought against ATC arising out of this Agreement, the liability of ATC shall be limited to the actual price paid by the Client to ATC for the specific product or service identified as defective. This clause shall not apply in the event of personal injury or death.
- (e) Without prejudice to the foregoing, in the event and notwithstanding that any of the terms here above in respect of limitation of liability be rendered void, illegal or unenforceable, the Client hereby expressly agrees that its sole remedy shall be the return of any monies forwarded to ATC for the specific product or service identified as defective. This clause shall not apply in the event of personal injury or death.
- (f) Where some other form of remedy has been expressly provided by ATC to client in writing prior to the commencement of the provision of the Service(s) / Product(s), whether in the Sales Quotation or by way of a Service Level Guarantee or Work Order, those provisions shall supercede clause 6(e) herein ONLY in respect of the quantum of ATC's liability, and shall not in any way prejudice any of the other clauses in this Addendum.

*Please refer to addendum "A" for other terms and conditions in respect of limitation on liability specific to the various service(s) and/or product(s) received from ATC.*

## **7. Force Majeur**

Neither party shall be liable in damages or have the right to terminate this Agreement for any delay or default in performing hereunder if such delay or default is caused by conditions beyond its control including, but not limited to Acts of God, Government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected. If either party shall seek to rely on this clause, it shall immediately give notice to the other with full particulars of the act or matter claimed as Force Majeure event. The party so affected shall take all reasonable steps to remedy the failure to perform and keep the other party informed of the steps so being taken. If an event of Force Majeure occurs which results in ATC being unable to provide service, ATC will release CLIENT to obtain the affected services from any third party at the cost of the CLIENT until ATC resumes the provision of the affected services. If any event of Force Majeure lasts for more than six (6) months, either party may, following consultation for a period of not less than thirty five (35) days with a view to resolving the matter, terminate this Agreement by one months' notice in writing.

## **8. Operating Procedures, Routine Maintenance**

ATC shall have the right to conduct routine maintenance, improvement works, repair works or other works that may cause interruptions to the services provided. ATC shall endeavor to give prior notice by posting the dates and times of such works on the ATC website.

## **9. Indemnity**

CLIENT undertakes that it will keep ATC fully indemnified (on an indemnity basis) against all actions, claims, proceedings, costs and damages (including any damages or compensation paid by ATC on the advice of its legal advisers to compromise or settle any claim) and all legal costs or other expenses on and indemnity basis arising out of any misuse of ATC's services or otherwise a breach of the terms contained herein or any of the warranties or representations made by the CLIENT.

## **10. All Service Orders Final as Placed.**

Once confirmed by the CLIENT, in writing or by electronic transmission, all service orders as submitted and processed via the web site, email, fax or mail are final. Once confirmed, any errors, inaccuracies or omissions made during the placement of an order shall be the sole responsibility of the CLIENT. No cancellations of service orders will be accepted after receipt of confirmation, except with the express written consent of ATC.

## **11. Cancellation of Service Orders.**

CLIENT may cancel a service order no less than 24 hours prior to the scheduled service time with no charge. Cancellations of Service Orders in less than 24 hours of the scheduled service time will not be accepted, except with the express written consent of ATC. If consent is provided, CLIENT will be invoiced a 1 hour minimum to cover the costs and time involved with this process.

## **12. All Product Orders Final As Placed.**

Once confirmed by the CLIENT, in writing or by electronic transmission, all product orders as submitted and processed via the web site, email, fax or mail are final. Once confirmed, any errors, inaccuracies or omissions made during the placement of an order shall be the sole responsibility of the CLIENT. No cancellations of product orders will be accepted after receipt of confirmation, except with the express written consent of ATC.

## **13. Pricing Information; Availability Disclaimer**

ATC reserves the right to make adjustments to pricing, Products and Service offerings for reasons including, but not limited to, changing market conditions, Product discontinuation, Product unavailability, manufacturer price changes, supplier price changes and errors in advertisements. All orders are subject to Product availability and the availability of Personnel to perform the Services. Therefore, ATC cannot guarantee that it will be able to fulfill CLIENT's orders. If Services are being performed on a time and materials basis, any estimates provided by ATC are for planning purposes only.

## **13. Minimum Product Orders Fee.**

CLIENT acknowledges that ATC has a minimum order fee of \$5.00 on any product order under \$500.00.

#### **14. Errors and Returns.**

ATC retains the sole and complete discretion to authorize (or refuse to authorize) the return of any product purchased by CLIENT. Unless a clear error has been made by an employee or contractor of ATC that is in obvious conflict with the specifications provided on the confirmed production order, no returns of merchandise will be accepted. If an error is made and acknowledged by ATC in writing, then corrected replacement goods will be provided to the CLIENT by ATC once the goods shipped in error have been returned to the authorized return address supplied.

The amount charged for the outbound shipping of the product(s) to the CLIENT is not refundable under any circumstances. The cost of return shipping back to the return address provided by ATC (i.e. all return freight and/or delivery charges) is the responsibility of the CLIENT unless specifically waived IN WRITING and in advance. Further, no returns will be authorized or accepted for any products unless a request is made by the CLIENT within 24 hours after delivery of the goods to CLIENT.

#### **15. Shipping.**

ATC will attempt in all instances to use the least expensive method of shipping product to the CLIENT. ATC is not responsible for loss or damage of products in transit. CLIENT will be responsible for checking shipment upon delivery for total product count and condition. Any shortage in total product count or evidence of damage to goods must be noted and reported to the carrier's office. All claims must be filed with the carrier within 24 hours from the date of loss or damage. No standard freight charge on orders over \$1500 if shipped standard ground freight (ATC reserves the right to choose carrier), but all orders under \$1500 will incur shipping charges.

#### **16. Charge-Back Fees.**

CLIENT understands and agrees that all products and services purchased, produced and shipped are considered a final sale for which no refunds will be given or provided except as expressly provided herein. As such, CLIENT agrees and acknowledges that by purchasing any product or service from ATC, CLIENT shall be solely responsible for and shall bear (and/or reimburse) ATC for any charge-backs or fees issued to ATC from any credit card company, merchant bank or other source of payment that is issued at the request of the CLIENT outside of the expressly provided methods of return. Stated another way, should CLIENT request a refund or charge cancellation from any credit card company, merchant bank or other source of payment processing against the purchase of ATC products and services, and should said card company, merchant bank or other source thereafter impose any fee or direct any charge back fee or amount to ATC at the request of said CLIENT, CLIENT shall reimburse ATC for the amount of said charge back fee and the initial purchase amount (the "total amount"). By purchasing any product from ATC, CLIENT expressly authorizes ATC to direct the stipulated payment/charge to be made to CLIENT's credit card account (the same being the credit card account used in the initial purchase of said product or service) in the amount of said "total amount" to ATC for such reimbursement, plus a twenty-five percent (25%) administrative fee to cover the costs and time involved with this process. CLIENT acknowledges and agrees that the policy set forth in this paragraph provides for reimbursement to ATC for fees incurred, is fair and reasonable and is not a penalty clause or provision.

#### **17. Intellectual Property.**

All technology, content and/or information provided to or otherwise available to the CLIENT through this agreement are the property of ATC and/or its affiliates. Any rights or licenses granted by ATC to the CLIENT to use such technology, content and/or information shall terminate upon expiration or termination of this Agreement (for whatsoever reason).

This agreement does not confer any right to use any trademark(s) or product / service trade name(s) used, owned or registered by ATC or its affiliates. Prior written approval must be obtained from the relevant parties prior to any use.

## **18. Exclusion of Contracts (3<sup>rd</sup> Party) Act.**

Save as expressly stated herein, a person/body corporate who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act to enforce any term of this Agreement.

## **19. Confidentiality.**

19.1 Without creating any obligation to disclose such information, the Parties recognize that they each may have received or may receive information from the other Party, that is not generally known in the industry, that provides the respective Party with an advantage in business, and that constitutes the valuable, special and unique assets of that Party. The Parties further specifically acknowledge that all information concerning any future and proposed ATC products and services, as well as the fact that the products or services are planned, under development, or in production, as well as any descriptions of the features of the future products or services and all computer source code and object code and software constitutes exceptionally valuable trade secrets of ATC. The Parties agree that all information exchanged among them under this Agreement is confidential, whether that information was directly or intentionally communicated, and whether the information was gained by a Party or its personnel ("Confidential Information").

19.2 The Parties agree that the term Confidential Information as used in this Agreement does not include any information, which: is published, known publicly or otherwise in the public domain prior to execution of this Agreement; is known by the Party receiving the information prior to the execution of this Agreement; is published by the Party providing the information, or which becomes publicly known or otherwise becomes a part of the public domain through no act or omission of the Party receiving the information under this Agreement after the date this Agreement is executed; is made available to the Party receiving the information under this Agreement after the date this Agreement is executed by a third party under no obligation to maintain any confidentiality is independently developed by the Party receiving the information under this Agreement; the Party providing the information under this Agreement is required to disclose by law, regulation, or Court order from a Court of competent jurisdiction; provided however that the Party required to disclose the information provides the Party that provided the information under this Agreement with immediate notice of such request, and exercises commercially reasonable best efforts to prevent or limit disclosure.

19.3 The Parties agree that neither Party shall use any Confidential Information of the other Party except when specifically authorized in advance by the other Party and then only to the extent necessary for any of the following:

- conducting negotiations, discussions, or consultations with designated Party representatives;
- supplying goods or services;
- preparing confidential estimates, bids or proposals, and invitations for bids or requests for proposals for submission; or accomplishing any purpose requested in writing.

19.4 The Parties agree to protect each other's Confidential Information and treat it as strictly confidential and that they shall not disclose any Confidential Information received from the other (the "Disclosing Party") to any other person unless specifically authorized in writing by the disclosing party to do so. If the Disclosing Party gives the Party receiving Confidential Information (the "Receiving Party") written authorization to make any disclosures, the Receiving Party shall do so only within the limits and to the extent of that authorization.

19.5 The Parties shall use their best efforts to prevent inadvertent disclosure of any Confidential Information to any third party. The Parties shall instruct its personnel to keep Confidential Information confidential by using the same care and discretion that they use with similar information.

19.6 The Parties agree that copies of Confidential Information shall not be made without the express written permission of the Party that owns the Confidential Information, and that all such copies shall be returned to the owner with the originals at the termination or other expiration of this Agreement.

19.7 The Parties agrees that all of the obligations with respect to Confidential Information shall survive the termination or other expiration of this Agreement.

## **19. Confidentiality cont'd.**

19.8 The Parties agree that any unauthorized use or disclosure of Confidential Information may cause substantial harm, and in such event the Disclosing Party may not have an adequate remedy at law, and that the Disclosing Party will in that event be entitled to an injunction with the posting of the minimum allowable bond enjoining and restraining the Receiving Party from disclosing the Confidential Information and restraining related services. This provision does not prevent pursuit of other remedies, including a claim for losses and damages.

19.9 Any violation of this Article 10 or its sub paragraphs shall be a material violation of this Agreement.

19.10 Nothing in this Agreement is to be construed as conveying, creating or granting any right, title or interest in any Confidential Information exchanged among the Parties or any obligation to disclose Confidential Information. Nothing in this Agreement constitutes any right to use, sell, exploit, copy or further develop Confidential Information in any way, except as expressly stated in this Agreement. No license is granted or implied in this Agreement.

## **20. Unauthorized Disclosure of Information.**

If it appears that ATC has disclosed (or has threatened to disclose) Information in violation of this Agreement, CLIENT shall be entitled to an injunction to restrain ATC from disclosing, in whole or in part, such Information, or from providing any services to any party to whom such Information has been disclosed or may be disclosed. CLIENT shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

If it appears that CLIENT has disclosed (or has threatened to disclose) Information in violation of this Agreement, ATC shall be entitled to an injunction to restrain CLIENT from disclosing, in whole or in part, such Information, or from receiving any services from any party to whom such Information has been disclosed or may be disclosed. ATC shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

## **21. Confidentiality After Termination.**

The confidentiality provisions of this Agreement shall remain in full force and effect after the termination of this Agreement.

## **22. Mediation**

If one or more disputes arise relating to, or with regard to the interpretation and/or performance of this Agreement or any of its provisions, the Parties agree first to attempt to resolve same by mediation.

## **23. Arbitration**

If mediation is unsuccessful, any controversy or claim (of any and every kind or type, whether based on contract, tort, statute, regulations, or otherwise,) arising out of or relating to this Agreement (or any party's rights, duties, and obligations under this Agreement), or the breach thereof, including without limitation, the arbitrability of any controversy or claim, the existence, validity, construction, interpretation, negotiation, performance, non-performance, breach, termination, or enforceability of this Agreement, shall be resolved by arbitration administered under the Rules of the American Arbitration Association ("AAA") in accordance with the Commercial Arbitration Rules and the Optional Rules for Emergency Measures of Protection of AAA, with the award being final and binding, and judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any provisional remedy which would be available from a court of law shall be available from the arbitrator(s), to the Parties, pending arbitration. Civil discovery shall be permitted for the production of documents and taking of depositions. The arbitrator(s) shall be guided by the Federal Rules of Civil Procedure in allowing discovery and all issues regarding compliance with discovery requests shall be decided by the arbitrator(s). The arbitrator(s) may impose sanctions and take other actions with regard to the parties that the arbitrator(s) deem appropriate to the same extent that a judge could pursuant to the Federal Rules of Civil Procedure. The Federal Arbitration Act shall govern all arbitration proceedings under this Agreement.

**23. Arbitration Cont'd.**

This Agreement shall in all other respects be governed and interpreted by the laws of the State of Texas, excluding any conflicts or choice of law rule or principles that might otherwise refer construction or interpretation of this Agreement to the substantive law of another jurisdiction. The arbitration shall be conducted in Fort Worth, Texas by one neutral arbitrator chosen by the Parties by agreement, and if they cannot agree within 20 days of receiving written demand for arbitration, then chosen by the AAA, under its Commercial Arbitration Rules if the amount of the claim is one million dollars (\$1,000,000.00) or less, and by three neutral arbitrators chosen in the same manner if the amount of the claim is more than one million dollars (\$1,000,000.00). Neither Party nor the arbitrator(s) may disclose the existence, content, or results of any arbitration hereunder without the prior written consent of both Parties. All fees and expenses of the arbitration shall be borne by the Parties equally. However, each Party shall bear the expense of its own counsel, experts, witnesses, and preparation and presentation of proofs. The prevailing Party, according to the arbitrator(s), shall be entitled to an award of reasonable attorney's fees, for the arbitration and for all appeals of the award, arbitration fees, arbitrator fees, and administrative expenses. This agreement to arbitrate shall survive the termination or other expiration or repudiation of this Agreement.

**24. Applicable Law.**

This Agreement shall be governed by the laws of the State of Texas.

**25. Change of Terms and Conditions.**

The Client shall not be entitled to amend, add or omit any term and condition at any time unless ATC has accepted such changes in writing.

## ADDENDUM "B"

### *Limitation on Liability*

1. This Addendum contains clauses additional to the Standard Terms and Conditions, and shall be without prejudice to the rights and obligations contained therein.

### **HOSTING / BANDWIDTH SERVICES**

2. The following provisions in this clause 2 shall apply to the provision of hosting, co-location, bandwidth, messaging (Email, SMS, Instant Messaging) and other services involving networks hosted by ATC, and these provisions shall apply in addition to clause 1 hereabove.
  - (a) In respect of email services and SMS (short messaging service) services, neither ATC nor its Information Providers are responsible for any damages arising from Client's use of ATC Telecom Network or inability to use ATC Telecom Network. Due to the nature of the technology, there is no guarantee of message delivery. Email return receipts may be requested, but there is no guarantee that the recipient's mail system will process or even acknowledge these requests.
    - (b) ATC is not responsible for CLIENT's files residing on ATC Telecom Network. Client shall be responsible for independent backup of all such data at a site determined by CLIENT. ATC cannot and does not exercise any control whatsoever over the information passing through its network or through the Internet. Due to the potential threat of viral and other malignant attack(s), ATC highly recommends the practice of safer computing to protect against computer viruses. ATC is in no way responsible for any data loss or damage arising from viral or other infections from the Internet. Client undertakes browsing and downloading of Internet files at their own risk.
  - (c) CLIENT is hereby warned that some Internet sites accessible via ATC Telecom Network allow posting, retrieval, and/or electronic mailing of materials that may be considered obscene or objectionable and/or illegal. ATC is not responsible for inadvertent or deliberate access to such material and cannot prevent access of such material. It is recommended that each CLIENT closely monitors use of his/her account especially in the case of potential use or misuse by minor children. Accounts for minor children must be opened by a parent or legal guardian with their explicit consent, and the parents and legal guardians shall be responsible to monitor and manage these accounts to prevent misuse.
  - (d) ATC Telecom Network services may be used only for lawful purposes. Hosting / Transmittal of any material by any means (whether by email, SMS, through the web-site or any other mode of communication involving ATC Telecom Network) in violation of any international or local regulation is prohibited. This includes, but is not limited to: copyrighted materials, material legally judged to be threatening or obscene, or material protected by trade secret. The Client hereby expressly agrees to indemnify and hold harmless ATC (AKA Advanced Techcare, Inc., Advanced Techcare, advtc.com) from any claims directly resulting from the Client and/or any of its end-users' use of the service which damages the Client, its end-user or another party. Any access to other networks through the ATC Telecom Network must comply with the rules appropriate for the other network. Violation of the rules of other networks is grounds for account cancellation and other penalties. This includes, but is not limited to, mass Usenet posting, Usenet cross-posting, mass emailing, and/or the sending of unsolicited commercial email. ATC shall not be liable under any head of claim (including without limitation tort or contract) for any direct, indirect, incidental, special or consequential damages in any way related to the product or services provided.

## **HOSTING / BANDWIDTH SERVICES – cont'd.**

2.
  - (e) The services provided by ATC are limited to data transport and storage. These services are contracted with adults of legal age only, and shall be governed by the laws of the United States. Any access of these services by minors, or by residents of the United States or localities other than the United States, is the responsibility of the service user and not ATC. All users are expected to abide by the laws of the United States. Upon notification of violation of law, ATC may at its discretion immediately terminate the account without refund, without prejudice to any other remedies available to ATC).

## **PROFESSIONAL SERVICE**

3. The following provisions in this clause 3 shall apply to the provision of system integration, outsourced network services, managed services and other services involving products developed by third parties, and these provisions shall apply in addition to clause 1 hereabove.
  - (a) ATC does not warrant Third Party Products (whether procured by ATC or CLIENT). Where ATC has procured the Third Party Products on behalf of Client, ATC hereby assigns to CLIENT (for the duration of this Agreement) its rights under any warranties in respect of Third Party Products, copies of which will be supplied on request, and ATC will assist CLIENT at CLIENT's expense in enforcing CLIENT 's rights under such warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NO WARRANTY, CONDITION, UNDERTAKING OR TERM, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE AS TO THE CONDITION, QUALITY, PERFORMANCE, MERCHANTABILITY, DURABILITY OR FITNESS FOR PURPOSE OF ANY THIRD PARTY PRODUCT IS GIVEN OR ASSUMED BY ATC AND ALL SUCH WARRANTIES, CONDITIONS, UNDERTAKINGS AND TERMS ARE HEREBY EXCLUDED.
  - (b) Where ATC has provided the system integration services and/or other ancillary services, and where the CLIENT has subsequently made any additions, modifications or otherwise interfered with the system without prior consulting with ATC and seeking its assistance, ATC shall not be liable for any damage (whether direct or indirect) whatsoever arising from the system. The CLIENT shall also indemnify ATC on a full indemnity basis for the cost of labor and supplies needed to rectify and/or replace the system, and for all other ancillary costs and charges.

## **SECURITY SERVICES**

4. The following provisions in this clause 4 shall apply to the provision of managed services such as virus detection, anti-spamming, intrusion detection, firewall and other similar security services provided by ATC, and these provisions shall apply in addition to clause 1 hereabove.
  - (a) Due to the nature of Information Technology (IT), no anti-viral or similar service will be 100% effective against all IT threats, and the limitations on liability herein shall be in addition to any additional conditions and limitations ATC may impose in respect of such services.
  - (b) CLIENT is again advised to take all sensible precautions to minimize cost and inconvenience in the event of an attack, such as maintaining firewalls, having separate hard disks for sensitive data and/or the operating system, and having a managed system of backing up critical information on a regular basis, as well as procuring the necessary insurances to cover such occurrences.