



## ADVANCED SUPPORT CONTRACT– 1 I 2003

To receive further information, or to send any notice regarding any topic of the hereunder Support Agreement, ITLITY may be contacted at: Oulton Rocks, Kibblestone Road, Oulton ST15 8UJ, United Kingdom or by e-mail at [admin@itlity.com](mailto:admin@itlity.com)

### 1. DEFINITIONS

- i) *The Agreement*: the present document i.e. contract
- ii) ITLITY, *We* or *Us* or *Our* or *Ours*: either terms refer to I.T. Lity Ltd or I.T. Lity S.A.S.;
- iii) *The Customer* or *You* or *Your* or *Yours*: either terms refer to the purchaser, as a private or a company whichever applies, of the Luciol Products or Support;
- iv) *Product* stands for The Luciol Products plus any other hardware and/or software product and documentation bought to a third party which would be part of ITLITY's supply to The Customer
- v) *The Luciol Support* or *Support* stand for Advanced and Premium technical support, consulting assistance and development services and their deliverables, all associated to The Luciol Products

### 2. DOCUMENTS TO GOVERN

This Agreement and the ITLITY's Sales Terms and Conditions document govern the Luciol Advanced Support performed by ITLITY and apply to Advanced Support services notwithstanding any conflicting, contrary or additional terms and conditions in any purchase order or other document or communication from The Customer. Wherever and whenever a contradiction or an ambiguity would appear between this Agreement and the ITLITY's Sales Terms & Conditions, the ITLITY's Sales Terms & Conditions shall prevail.

ITLITY objects to and shall not be bound to any past or future terms or conditions not set forth herein, including any additional terms shown on The Customer's purchase order or acknowledgement, which order and acknowledgement shall be accepted for billing purposes only, and any inconsistencies therein with the provisions hereof shall be null and void.

Any waiver, alteration, modification, or amendment of this Agreement shall only be effective as against either party if such waiver, modification, or amendment is contained in a written instrument duly executed by or on behalf of both parties.

ITLITY agrees to provide The Support as described in its proposal or quotation. Prices shall apply for the period specified in the proposal or quotation, or if no period is specified, for thirty (30) days.

All orders are subject to acceptance by ITLITY. Upon acceptance, no order may be cancelled or rescheduled without ITLITY's consent, which consent may be given by ITLITY in its sole discretion. For Services, ITLITY may condition acceptance upon The Customer's prior execution of a non-disclosure agreement relating to ITLITY's confidential information.

### 3. PURPOSE OF THE CONTRACT

Luciol Products is associated with three levels of technical support:

- i) *Standard Support*: free of charge, by e-mail only and without time limitation, description is available from [www.luciol.info](http://www.luciol.info). This support targets all the people using the Luciol software with or without using the Luciol hardware

- ii) *Advanced Support*: this annual support is described hereby. Advanced Support is for System Integrators who use Luciol Products as part of their systems and who want to ensure appropriate support is given by ITLITY with respect to the systems Luciol is integrated in
- iii) *Premium Support*: this type of support is for Original Equipment Manufacturer aiming at using Luciol Products as part of their product range and willing, over a limited period of time, to ensure an expert support for the transfer of the necessary technology. Premium support is only accessible on a case by case basis with a dedicated contract. Please contact ITLITY for further information.

For the purpose of Advanced Support, you will be requested to provide sufficient equipment which will allow ITLITY support team to set up a test platform in their premises. These equipment will remain your property and you will have to subscribe an appropriate insurance to cover financial risks against loss or theft of your equipment. ITLITY will provide you all the information showing the protections against fire, robbery and other incident which would lead to the partial or complete loss of your equipment.

This Agreement defines the terms and conditions for the good performance of the Advanced Support to The Customer by ITLITY.

#### **4. ADVANCED SUPPORT**

Advanced Support includes:

- i) notification of documentation, software, hardware updates even after the one year warranty has elapsed. This notification will show the modifications, the corrections and the possible non-compatibilities with previous versions
- ii) assistance during your impact analysis of software and hardware updates with respect to your environment
- iii) assistance in reproducing and clearing a problem on an equivalent test platform in ITLITY's premises

The Advanced Support is available in English. French and Spanish may also be available upon request.

Advanced Support response time is defined as follows:

- i) we shall acknowledge the receipt of your query by e-mail or fax with a query unique identifier in less than 2 hours;
- ii) we shall do our best effort to reply to you in less than four hours but, the time to analyse your query may strongly vary: we may have to set up a specific test platform to reproduce your situation.

Advanced Support does not:

- i) supply of new software, hardware or documentation upon update or for upgrade purposes. Except for customized applications, Luciol software and documentation is available free of charge through [www.luciol.info](http://www.luciol.info) in electronic format
- ii) include or intend to provide on-site intervention,
- iii) include support when your install on-site Luciol Products –you may still access e-mail support for this purpose,
- iv) include repair of Luciol Products –this is part of warranty or maintenance contracts
- v) entitle to training on how to use Luciol Products development tools.

Should you be interested in such options, please contact ITLITY for quotation.

Advanced Support does not cover any damage or failure caused by:

- 1) use of other products; or
- 2) site conditions that do not conform to ITLITY's site recommendations; or
- 3) neglect, improper use, fire or water damage, electrical disturbances, transportation by Customer, work or modification by people other than HP employees or subcontractors, or other causes beyond ITLITY's control; or
- 4) inability of any non-ITLITY Products in The Customer's environment to correctly process, provide or receive data data, and to properly exchange data data with the Products supplied by ITLITY; or
- 5) non-skilled personnel of The Customer for the purpose of the Advanced Support.

ITLITY may provide Support, at additional cost, for products that are not ITLITY Branded when approved by ITLITY in writing. The support for these Products are subject to an additional quotation and will be an amendment of the Advanced Support contract.

## **5. ADVANCED SUPPORT ACCESS**

Upon signature of the Advanced Support contract, The Customer will receive a unique e-mail address in [www.luciol.info](http://www.luciol.info) domain and a unique identifier.

It is The Customer's responsibility to ensure this information are not disclosed to third parties. Providing this information would be fraudulently used by a third party new address and identifier would be provided by ITLITY.

This e-mail address and identifier are required to contact by e-mail and phone ITLITY's Advanced Support.

Advanced Support is accessible by e-mail, phone and fax. When using this Support you must identify yourselves with e-mail address, telephone number, fax number whichever is relevant and contract identifier in any case.

Advanced Support phone and fax number will be communicated to The Customer upon signature of the contract, once support country will have been selected.

Advanced Support is available from 8h00 to 19h00 GMT time on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays excluding: new year's day, Good Friday, Easter Monday, Christmas day and Boxing day and all bank holidays –dates of which may be found at English DTI web site: [www.dti.gov.uk/er/bankhol.htm](http://www.dti.gov.uk/er/bankhol.htm). Note that depending on the country selected for support activity, the days off may vary.

## **6. ADVANCED SUPPORT ESCALATION**

In the unlikely event, proper support is not given to The Customer, ITLITY provides a direct access to advise ITLITY's management and to agree an immediate action to clear the situation.

In order to afford a prompt action, escalation is made by e-mailing a summary of the problems faced by The Customer and a contact name, ITLITY management can call back.

ITLITY Management email is: [patrice.mousset@itlity.com](mailto:patrice.mousset@itlity.com)

ITLITY Escalation responsible is duly entitled by ITLITY to make decision and take action.

## **7. ITLITY OBLIGATIONS**

ITLITY shall endeavour to provide Support with:

- i) skilled personnel with regards to Luciol Products
- ii) sufficient hardware equipment and software

ITLITY will register in its Anomaly Register any query from The Customer when it may suspect it is symptomatic of a Product anomaly.

ITLITY will do its best effort to log all the queries and their replies.

When The Customer notices that its queries are not addressed in a timely manner or replies are sent with abnormal delays, ITLITY provides an escalation level. Abnormal delays are, except otherwise stated, delays more than 2 working days.

## **8. CUSTOMER OBLIGATIONS**

To be eligible for Support, except otherwise agreed, The Customer's Products must be at current specified revision levels and, in ITLITY's reasonable opinion, in good operating condition.

Relocation of Products is The Customer's responsibility. Relocation may result in additional Support charges and modified service response times. Advanced Support of Products moved to another country is subject to availability. Moving Products to countries in which Advanced Support is not available will make the Advanced Support contract void. The Customer will be refunded in proportion to the number of months to run till the completion of the ongoing contract, minus two.

ITLITY will provide Advanced Support for ITLITY's Products when The Customer accepts ITLITY to suggest modifications. The Customer accepts to validate on its system the modification suggested by ITLITY.

The Customer remains responsible for removing any product(s) not eligible for Support to allow ITLITY to perform proper Advanced Support services. If Advanced Support services are made more difficult because of such product(s), ITLITY may notify The Customer can no longer be performed and therefore becomes ipso facto void. The Customer will be refunded in proportion to the number of months to run till the completion of the ongoing contract, minus two.

The Customer is responsible for maintaining a procedure external to the Products to reconstruct lost or altered its files, data or programs.

The Customer is responsible to appoint personnel using the Advanced Support who are sufficiently skilled to operate Luciol hardware and software.

The Customer agrees that ITLITY may, at no additional charge, modify Products to improve operation, supportability and reliability, or to meet legal requirements.

## **9. DURATION & CANCELLATION & TERMINATION**

The commencement date of this Agreement is the date at which the Support shall start; except otherwise stated the commencement date shall be the date of signature of this Agreement by both parties.

The Advanced Support is signed for a one year period from the commencement date.

The anniversary date is the date at which this Agreement has been signed by both parties.

The Advanced Support contract may be renewed by The Customer in writing at least two months prior to the anniversary date of the contract.

The Customer may cancel Advanced Support upon thirty (30) days written notice unless otherwise agreed.

ITLITY may cancel Advanced Support orders or delete Products no longer included in ITLITY's Advanced Support offering upon sixty (60) days written notice unless otherwise agreed in a Support agreement.

Cancellation of Advanced Support, will cause The Customer to be refunded in proportion to the number of months to run till the completion of the ongoing contract, minus two.

Cancellation will cause termination of this Agreement at the date of notification of cancellation by whichever party to the other. Termination makes immediately all the obligations of this Agreement void.

## **10. SUB-CONTRACTING**

Advanced Support is not yet available in all countries, ITLITY may subsequently, at its sole discretion, accept or reject any purchase order for Advanced Support.

However, in some countries, ITLITY may decide to sub-contract entire or part of this contract to another company in order to ensure a relevant and proper Advanced Support.

ITLITY shall inform The Customer of this sub-contracting principle prior to the signature of this Agreement by The Customer.

The Customer and ITLITY hereby accept and agree that ITLITY shall remain the sole interface for this Agreement and that the appointed sub-contractor shall act as an ITLITY representative.

## **11. PRICE**

The Customer may order Advanced Support from ITLITY's then current Support offering.

Except otherwise agreed, the applicable price for Advanced Support for a one year period is: 5,500.00 € (five thousand five hundred euro) exclusive of any VAT or any local taxes or other taxes or fees or charges for such support services applicable in The Customer's country.

This price may be revised without prior notification at any time.

For renewal of Advanced Support contract, the applicable price will be the one applicable at the anniversary date of the contract.

## **12. PAYMENT**

The Customer shall pay ITLITY the price(s) stated in the proposal or quotation or the applicable price if no proposal or quotation has been made.

The Customer shall bear all applicable federal, state, municipal and other Customer's country taxes such as VAT, sales, use and similar taxes measured by the purchase price paid for the Advanced Support.

The Seller will invoice The Customer at the date of Support commencement.

Payment of Advanced Support is 100% at Support commencement.

If The Customer fails to pay any invoice when due, or if ITLITY believes in good faith that The Seller's ability to make payments may be impaired, ITLITY may suspend support thereof until such payment is made, or may cancel the support thereof, and The Customer shall remain liable to pay for the Support already delivered.

The Customer agrees to pay any and all legal fees associated with payment collection.

Except otherwise agreed, all orders are payable in € (EURO). A copy of Your bank transfer or Your wire transfer must accompany Your purchase order, when applicable. Letters of Credit. An Irrevocable, Transferable, Confirmed by a European AAA-bank, Straight, Divisible, Payable on Sight, as presented, in EURO, L/C is acceptable by ITLITY for payment from its international Customers.

To date, no payment by credit cards is accepted.

Please contact ITLITY for more information.