

SPECIFIC TERMS AND CONDITIONS FOR LYNQ IMPLEMENTATION SERVICES (MES)

These specific terms and conditions govern the provision of Implementation Services by LYNQ as further defined. In each instance where these terms and conditions are inconsistent with the provision of the Agreement, including appendices, exhibits, order forms or other documents attached to or incorporated by reference to the Agreement, the provisions of these terms and conditions shall prevail.

1. DEFINITIONS

Capitalised terms used in this document are defined in the Glossary at the end of this document.

2. PROVISION OF SERVICE

- 2.1 Implementation Service means configuration, technical mapping, installation, implementation, data import/export, set-up of the Service, backup, implementation of upgrades, and/or training of Customer personnel regarding use of the Service.
- 2.2 The Customer is responsible for the preparation of all necessary Customer Data that exists outside of the LYNQ software product, as instructed by the LYNQ Consultant.
- 2.3 Implementation Services apply to current LYNQ products that are not in an end-of-life status.
- 2.4 Fixed Price Implementation Services must be completed within 12 months from the project start date.
- 2.5 Services resulting in the development of Deliverables outside of the Product Capabilities will be:
 - 2.5.1 scoped and quoted separately.
 - 2.5.2 subject to the general and specific terms and conditions, as referenced on the Order Form.

3. PRICE**3.1 Fixed Priced Implementation Projects**

- 3.1.1 Fixed Price means the fixed price for the Implementation to supply deliverables as set out in the Scope Document and as may be adjusted by a Change Order.
- 3.1.2 Fixed Price shall constitute all labour, materials, equipment, subcontracts and other costs and expenses of performing the work.

3.2 Time and Materials (T&M) Implementation Projects

- 3.2.1 T&M means a variable price for the Implementation to supply deliverables as set out in the Scope Document, and as may be limited by a Not to Exceed estimate.
- 3.2.2 All labour, materials, equipment, subcontracts and other costs and expenses of performing the work will be charged in accordance with the T&M rates supplied therein.
- 3.2.3 LYNQ shall notify the Customer in writing whenever it has reason to believe that the costs it expects to incur in the following 60 days, when added to all costs previously incurred, will exceed 75 percent of the Not to Exceed estimate or the total cost will be either greater or substantially less than had been previously estimated.
- 3.2.4 Hours shall be subject to review and approval by LYNQ, before invoice generation.



4. CHANGE REQUESTS

4.1 LYNQ and the Customer agree that no change order or other form of order or directive will be considered valid unless it is delivered in writing by the Customer to LYNQ.

5. PAYMENTS

5.1 Fixed Priced Implementation projects

5.1.1 Invoices that are a for a one-time, non-recurring provision of a Fixed Price Implementation Project shall be issued no later than five (5) working dates from Order Date.

5.1.2 Payment must be made in full within 30 days of the Invoice Date.

5.2 Time and Materials (T&M) Implementation Projects

5.2.1 Invoices that are for T&M Implementation Services shall be issued no later than five (5) working dates from the last working day of a calendar month.

5.2.2 The customer will make payments for services on a monthly basis for services performed during the previous month. All Invoices shall include labor categories, rates, hours worked and total amounts per category

5.2.3 Payment must be made in full within 30 days of the Invoice Date.

GLOSSARY OF TERMS

“Affiliate” of a party means any legal entity in which a party, directly or indirectly, holds more than fifty percent (50%) of the entity’s shares or voting rights. Any legal entity shall be considered an Affiliate as long as that interest is maintained.

“Agreement” means an Order Form and documents incorporated into an Order Form.

“Change Request” means a change request made in accordance with Section 4 (Change Request Procedures) of these GTCs and in the form made available by LYNQ from time to time or included in the Order Form.

“Cloud Service” means any distinct subscription based, hosted, supported and operated on demand solution provided by LYNQ under a Cloud Service Order Form.

“Cloud Service Order Form” means all written order forms or other ordering documentation for Cloud Services entered into by LYNQ and Customer.

“Confidential Information” means:

(a) with respect to Customer: (i) the Customer Data, (ii) Customer marketing and business requirements, and/or (iii) Customer financial information; and

(b) with respect to LYNQ: (i) the Services, documentation, LYNQ materials, Work Product and Deliverables, and (ii) information regarding LYNQ research and development, product or services offerings, pricing and availability.

Confidential Information of either LYNQ or Customer also includes information which the disclosing party protects against unrestricted disclosure to others that (i) the disclosing party or its representatives designates as confidential at the time of disclosure, or (ii) should reasonably be understood to be confidential given the nature of the information and the circumstances surrounding its disclosure.

“Consultants” means employees and third-party contractors which LYNQ utilises to provide Services to Customer.

“Customer Data” means any content, materials, data and information that Customer or its authorised users enter into managed services or Customer-specific data that is derived from Customer’s use of the managed services (e.g. Customer-specific reports) as long as such derivative work is not a component of the managed services itself or furnished by LYNQ under the Agreement. Customer Data shall not include any component of the Services or material provided by or on behalf of LYNQ.

“Deliverables” means those specific Work Products which are explicitly identified as a “Deliverable” under the applicable Order Form.

“Intellectual Property Rights” means patents of any type, design rights, utility models or other similar invention rights, copyrights, mask work rights, trade secret, know-how or confidentiality rights, trademarks, trade names and service marks and any other intangible property rights, including applications and registrations for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

“License Agreement” means the agreement between LYNQ and Customer under which Customer procured the license rights to use LYNQ Software or LYNQ hosted or on demand service.

“Material Defect” means the Deliverable fails to substantially comply with the applicable and corresponding acceptance criteria for that Deliverable set forth in the Order Form.

“Order Form” means the ordering document for Services that references the GTCs.

“Product Capabilities” means the capabilities and limitations of the LYNQ Software product being implemented.

“Support Services” means the support services as specified in an Order Form that are in addition to the services delivered under the support schedule to the License Agreement. Services as per an applicable Order Form. LYNQ may add or make changes to its Support Service offerings from time to time.

“LYNQ Software” means (i) software products licensed to Customer as specified in software order forms all as developed by or for LYNQ and/or any of their affiliated companies and delivered to Customer; (ii) any new releases, updates or versions thereof made available through unrestricted shipment pursuant to the respective LYNQ support agreement or warranty obligation and (iii) any complete or partial copies of any of the foregoing.

“Scope Document” means the document that is provided with and becomes part of the Order Form.

“Services” mean those service(s) as further defined by the specific Scope Documents and Service Descriptions (where applicable) under an Order Form.

“Service Description” means pre-defined descriptions of services found at <http://www.lynqmes.com/services> current as of the effective date of the Order Form which in conjunction with a Scope Document defines the Services to be provided and becomes part of the Order Form.

“Taxes” means, VAT, foreign withholding, use, property, excise, service or similar taxes now or hereafter levied all of which shall be for Customer’s account.

“Work Product” means any work product or tangible results produced by or with LYNQ, including works created for or in cooperation with Customer.