

Customer Fact Sheet: ITRS Software and Services Terms

This fact sheet explains the key parts of our Product Terms (the Supplier Software and Services Terms) in plain English, so your procurement, legal and commercial teams can understand them quickly. It is a summary and a guide only – it does not change or replace the Product Terms themselves, which are available at www.itrsgroup.com/legal and which govern if there is any difference. If you have any questions, please speak to your usual ITRS contact or email legal@itrsgroup.com.

This document covers the commercial and legal terms of our contract. It does not cover data protection: how we handle any personal data is dealt with separately in our Data Processing Addendum (also at www.itrsgroup.com/legal) and is not addressed here.

An introduction to ITRS

ITRS is a global technology company that provides software and services designed to assist organisations to monitor, analyse and optimize the performance of their business-critical technology environments. Our solutions support customers across a range of industries, helping them maintain the availability, performance and resilience of the systems that underpin their operations. By delivering real-time visibility, actionable insights and expert support, ITRS enables organisations to identify issues faster, reduce operational risk and ensure the reliable delivery of critical services.

Our products

ITRS offers a portfolio of observability, monitoring and performance management solutions designed to support business-critical applications, infrastructure and digital services including:

- **Geneos:** real-time monitoring and observability for complex IT estates, helping organisations identify, investigate and resolve performance issues across applications, infrastructure and services before they affect the business.
- **ITRS Analytics:** a real-time analytics and capacity planning capability that turns monitoring and telemetry data into actionable insight, using anomaly detection and forecasting to anticipate issues, plan capacity and optimise cost across the IT estate.
- **Opsview:** infrastructure and network monitoring that provides unified visibility into the health, availability and performance of on-premise, cloud and hybrid environments.
- **Uptrends and Ekara:** digital experience monitoring that measures the availability, performance and user experience of websites, applications and APIs, using a combination of synthetic monitoring from locations around the world and real-user monitoring across web, mobile and business-critical applications.

Depending on the product, our software is provided either installed in your own environment (“on-premise”) or delivered as a cloud service (“SaaS”). Some products also include artificial intelligence features. Use of all of our software and services is governed by our Product Terms, which form a contract with you when you sign or accept an Order Form.

Our terms, not yours

In short: our terms. Use of our software and services is on our Product Terms. We apply a consistent set of terms across our customer base so we can operate efficiently and offer our software at a reasonable price

– and our Product Terms are carefully drafted to reflect how our products actually work and the balance of risk that underpins our pricing. For that reason, and as clause 1 makes clear, any terms in your purchase order, vendor portal or supplier-onboarding pack do not form part of the contract and do not apply, even if we don’t object to them. We would always rather spend our time helping you get the most out of our software than reviewing and reconciling third-party paperwork.

Adding additional or specific terms – via the Order Form

We recognise that some customers – particularly in regulated industries – need additional or specific provisions, whether that’s a bespoke commercial point or a regulatory requirement. Rather than working from your own contract template, the simplest and quickest route is to capture any additional or agreed terms in the Order Form itself.

The Order Form forms part of the contract and, where it conflicts with the Product Terms, it takes precedence for that order (clause 1). So anything specific you need – special pricing or payment arrangements, an agreed change to a standard clause, or a particular regulatory provision – can be written into the Order Form and will override the standard wording to that extent, without the need for a separate customer agreement. Just raise it with your usual ITRS contact and we will address it in the Order Form to the extent we can.

What if we have specific regulatory requirements?

We understand that customers in regulated industries sometimes need extra provisions to satisfy their own regulatory obligations, and we are happy to accommodate reasonable requirements to the extent we can. In practice, three routes cover most needs:

- Data protection: how we handle any personal data is dealt with in our Data Processing Addendum (the “DPA”), which is incorporated into the contract. It reflects our processing practices and applicable data protection law, so a separate customer DPA is generally not needed.
- Financial services (DORA): if you are subject to the EU’s Digital Operational Resilience Act, clause 20 confirms our status – we are not a designated “critical” ICT provider – and sets out the limited, proportionate support we provide to help you meet your DORA obligations, which in most cases removes the need for a separate DORA addendum.
- Anything else: other specific or regulatory provisions can be captured in the Order Form (see above), which takes precedence over the Product Terms for that order.

If you have a particular requirement, just let your usual ITRS contact know and we will work through it with you.

Key terms in our Product Terms

How your contract is formed *(clause 1)*

Your contract with us is made up of an Order Form plus these Product Terms – together they create a binding agreement, and each Order Form is its own separate contract. Our Product Terms are the only terms we contract on: any terms in your purchase order, vendor portal or supplier-onboarding pack do not apply, even if we don’t object to them. If an Order Form and the Product Terms ever conflict, the Order Form takes priority for that particular order (which, as explained above, is how any additional or specific terms are agreed), and there is a clear order of precedence for the other documents that make up the contract.

No direct competitors *(clause 2)*

Our direct competitors cannot access or use our products (including through a free trial), and cannot use them for benchmarking, without our written agreement. When you place an order you confirm you are not a competitor and are not acting for one. This simply protects our intellectual property.

Free trials and free versions *(clause 3)*

If you are new to a product, we may give you a free trial for a limited period (usually 30 days) in a non-production environment, so you can decide whether to buy. We also offer some free, limited-feature versions on an ongoing basis – for example the Uptrends Free Forever website-monitoring account. Trials and free versions are provided “as is”, without warranties and at your own risk, and we can change or withdraw them.

Subscriptions and renewals *(clause 4)*

A subscription gives you a licence to use the software for the subscription term. Subscriptions renew automatically – for a further 12 months (or one month, for monthly plans) – unless either of us gives notice not to renew before the current term ends. That notice is 90 days for annual subscriptions and 30 days for monthly ones. Some of our software includes open-source components, which are covered by their own separate licences.

On-premise software *(clause 5)*

If you run our software in your own environment, we grant you a licence for your subscription term. The split of responsibility is simple: you look after the things in your control – the hardware, operating systems, networks and security needed to run the software, and backing up your own data – and we look after the software itself. We promise that, for the first 30 days, the software will perform materially in line with its documentation. That promise understandably doesn’t cover problems outside our control – for example misuse, running the software on unsupported systems, or changes made without our authorisation. If something is materially wrong and we can’t put it right in a reasonable way, you can stop using the affected software and we will refund the unused part of your fees. Keeping that as your single, clear remedy makes things predictable for both of us.

Software-as-a-Service (SaaS) *(clause 6)*

For our cloud products, our aim is straightforward: keep the service running and available to you around the clock. We use commercially reasonable efforts to keep the SaaS available 24 hours a day, 7 days a week, and we target 99.9% uptime measured across the year – leaving aside scheduled maintenance and any downtime caused by your own systems or our underlying cloud provider, which are outside our control. We also promise that the SaaS will perform materially in line with its documentation, and if a material problem can’t be put right in a reasonable way, you can terminate the affected service and we will refund the unused part of your fees. When your contract ends, you have 30 days to retrieve your data before we delete it, so nothing is lost in the handover.

Artificial intelligence features *(clause 7)*

Some products include AI features. Because AI is emerging, probabilistic technology, its output can sometimes be inaccurate, incomplete or biased – so you should keep a person in the loop and independently check anything important before relying on it. AI features may use our own AI, a third-party model, or a model you choose to connect yourself, and you are responsible for how you configure and use

them. AI features are provided “as is”, and our liability in connection with them is very limited – particularly where they are offered on a free or trial basis.

Checking usage *(clause 8)*

So that we can be sure use stays within what you have paid for, we keep records of how the software is used – through an audit tool for on-premise software, and through usage metrics for SaaS. If usage goes beyond your permitted scope, we can invoice the extra at our standard rates, back-dated to when it began, and adjust your fees going forward. We ask you not to disable or interfere with the audit tool.

How you can use the software *(clause 9)*

You (and your authorised users) can use the software for your own internal business purposes, within the scope you have bought. You cannot copy, resell, sub-license, reverse-engineer or use it to build a competing product, and everyone using it must follow our Acceptable Use Policy.

Managed service providers *(clause 10)*

If you use our software to provide managed services to your own customers, clause 10 allows that within agreed limits. In return, your contracts with those customers need to protect us in the same way these terms do, and you take responsibility for those users’ use of the software.

Support *(clause 11)*

We provide support during your subscription in line with the support plan you have chosen, for supported versions of the software. If, as part of a product’s lifecycle, we need to stop maintaining a component, we will give you at least six months’ notice.

Professional services and training *(clause 12)*

Where you buy consultancy or training, we deliver it under a statement of work and charge in whole days. If you ask us to deliver on site, you also cover our people’s reasonable travel, accommodation and subsistence. Services need to be used within 12 months. We own what we create, and grant you a licence to use the deliverables for your internal business.

If you cause a delay – Relief *(clause 13)*

If we are delayed or prevented from doing something because you haven’t done your part – for example, giving us access or meeting a prerequisite in a statement of work – then we are not liable for that delay, any affected deadlines move out accordingly, and you cover our reasonable extra costs.

Invoices and payment *(clause 14)*

Invoices are payable within 30 days. Importantly, your obligation to pay on time does not depend on us completing your vendor-registration, onboarding or purchase-order process, and a missing PO number is not a reason to pay late. Overdue amounts carry interest at 4% above the Bank of England base rate, and we can suspend access where fees remain unpaid.

Who owns what *(clause 15)*

We (and our licensors) own all of the intellectual property in our software, documentation and AI. You keep ownership of your own data and materials. If you give us feedback or suggestions about our products, we are free to use them to improve what we do.

If a third party claims our software infringes their IP *(clause 16)*

We will defend you against third-party claims that using our software infringes their copyright, database rights or trade marks, and cover amounts awarded against you – provided you tell us promptly and let us handle the claim. Some situations are excluded (for example, your own changes, misuse, or combining our software with other products). We can also secure the right to keep using the item, replace it, or withdraw it and refund you. This is your exclusive remedy for IP infringement.

Limits on liability *(clause 17)*

Some liability is never excluded – for death or personal injury caused by negligence, for fraud, and for anything the law does not allow us to exclude. Beyond that, neither of us is liable for indirect or “consequential” losses (such as lost profits or lost business), and our total liability is capped at the lower of the fees paid in the previous 12 months or £100,000. Your obligation to pay the fees you owe is not capped.

Ending the contract *(clause 18)*

Either of us can end the contract for a serious (material) breach that isn’t put right within 30 days, for insolvency, or on sanctions grounds. We can also end it if you breach key clauses or don’t pay within 60 days; if we end it for your default, outstanding and remaining committed fees for the term become payable. We can also suspend access – for example for non-payment, a security or acceptable-use problem, or maintenance – in the situations set out in the suspension clause.

Confidentiality *(clause 19)*

Each of us keeps the other’s confidential information confidential, uses it only for the purposes of the contract, and returns or deletes it on request. These obligations continue for five years after the contract ends – and for as long as the information stays a trade secret.

Financial services customers – DORA *(clause 20)*

For customers regulated under the EU’s Digital Operational Resilience Act (DORA), clause 20 confirms that ITRS is not a designated “critical” ICT provider, and sets out the limited, proportionate support we provide to help you meet your own DORA obligations – so in most cases you will not need us to sign a separate DORA addendum.

Other important terms *(clause 21)*

A few practical points worth knowing: we may name you as a customer and, with a review opportunity, create a case study; neither party is liable for events beyond its reasonable control (force majeure); the contract is governed by the law of England and Wales; and formal notices must be given in writing.