

Software Potential Service Terms of Use

(Last updated: June 2023)

1. What the Contract Covers

This is a contract (“Agreement”) between you (the entity or customer who has purchased access to the service) and Inish Technology Ventures Limited (“InishTech”). Sometimes InishTech is referred to as “we,” “us” or “our”. This Agreement applies to the InishTech Software Potential service (formerly known as Software Licensing and Protection Services, also known as “SLPS”), including updates, the use of product keys to access the Service and the issuance by you of activations for your software product (“Product”) utilizing the Service. Unless outlined below, all of the software or services are referred to in this contract as the “Service.”

Please note that we do not provide warranties for the service. The contract also limits our liability. These terms are in sections 12 and 13 and we ask you to read them carefully.

2. When You May Use the Service

Where you are licensed to use the Service on a commercial basis, you will be permitted to download a copy of both the Code Protector and Permutation (“Permutation”). You may use the Permutation, in binary code form, to assist in the development of your Product. You may include with your Product those portions of the Permutation intended to be and identified as “redistributable code”, defined as only those portions of code necessary in order for your Product to interact with the Service for the Service’s intended use. Activations: You may set up different types of activation based on your choice of license model for your Products. Where the license model(s) for activations are defined, your licensing of your Product will be consistent with such license models and will substantially be in accordance with the license model description provided by you.

3. How You May Use the Service

In using the service, you will:

- use the service only in accordance with its documentation;
obey the law;
- obey any codes of conduct or other notices we provide;
- use the Code Protector, Permutation and Service and such other components included under license solely for your internal use and not for further resale;
- keep your service account password secret; and
- promptly notify us if you learn of a security breach related to the service at support@softwarepotential.com;
- not notify any third parties of an actual or potential security vulnerability breach until InishTech has notified such third parties of such breach and/or made available a patch or other resolution for the breach;
- if you extend the service through automated features, you must
 - adhere to all acceptable use policies provided by InishTech, including those set forth in this section 3, and the terms and conditions of these terms.

4. How You May Not Use the Service

In using the service, you may not:

- use the service in a way that harms us or our affiliates, resellers, distributors, and/or vendors (collectively, the “InishTech parties”), or any customer of an InishTech party;
- engage in, facilitate or further unlawful conduct;
- use any portion of the service as a destination linked from any unsolicited bulk messages or unsolicited commercial messages (“spam”);
- use any entry point of the service to automate caching, meta-searching, monitoring, or user activity;
- use any unauthorized means to modify or reroute, or attempt to modify or reroute, the service;
- access or attempt to access any other third party’s material hosted in the service;
- damage, disable, overburden, or impair the service (or the network(s) connected to the service) or interfere with anyone’s use and enjoyment of the service; or

- you may not resell or redistribute the service, or any part of the service.

5. Paying InishTech

1. Payment Options.

Use of the Service is normally charged for on two bases: (i) a periodic subscription-based charge for access to the Service and (ii) activation charges based on your service usage. However, there are multiple charging options offered as “Software Potential Packages”, including options which include neither subscription nor activation charges. Pricing & Payment options for the InishTech service are set out in the Plans & Pricing section of the InishTech website, which outlines the packages offered together with the relevant terms & conditions for each package. If you have purchased rights to use the Service through a third party, the payment terms agreed by you and such third party shall apply and not the terms set forth in this section 5.

2. Payment Terms.

When you create a Service account, InishTech will setup your payment method. There are 2 main forms of payment – pay by card and pay by invoice. Typically, the more expensive packages are paid by invoice. For payments by card, you authorize us to charge you for the Service using your payment method and for any paid feature of the Service for which you choose to sign up or use while this Agreement is in force. You must be authorized to use the payment method. You will pay the charges in accordance with the payment terms specific to the particular package. Subscription fees are charged monthly or yearly in advance. Activation fees are charged monthly in arrears.

3. Updates to Your Billing Account.

You must keep all information in your billing account current, including your billing address and the expiration date of your credit card. We will send you a billing statement to the e-mail account that you designated when you enrolled. Billing changes may be sent to care@softwarepotential.com. If you tell us to stop using your payment method, we may cancel

your service. **Your notice to us will not affect charges we submit to your billing account before we reasonably could act on your request.**

4. Prices and Price Increases.

All prices, packages and special offers for the Service are posted at <https://www.inishtech.com> under the section “Plans & Pricing”. The price for the Service excludes all taxes and phone charges, unless stated otherwise. You are responsible for any taxes that you are obligated to pay or that we may collect from you. You are responsible for all other charges. We may change the price of the Service (both the subscription portion and activation charges) from time to time, subject to a minimum of 30 days notice to you by e-mail to the nominated commercial contact in your company.

5. Refund Policies.

Unless otherwise provided by law or in connection with any particular service offer, all charges are non-refundable and the costs of any returns will be at your expense.

6. Online Statement; Errors.

We will provide you with an online billing statement by e-mail for each billing period. If we make an error on your bill, we will correct it promptly after you tell us and we investigate the charge. You must tell us within 120 days after an error first appears on your bill. You release us from all liability and claims of loss resulting from any error that you do not report to us within 120 days after the error first appears on your online statement. If you do not tell us within this time, we will not be required to correct the error. We reserve the right to correct historical billing errors at any time.

7. Cancelling the Service.

You may cancel the service at any time, with or without cause, subject to 30 days written notice prior to the renewal date (by email to care@softwarepotential.com). Certain service packages may require cancellation charges, and you

will pay all cancellation charges as specified in the materials describing the offer. Cancellation of the service by you or by us under Section 13 will not alter your obligation to pay all charges made to your billing account, including usage/activation charges. After cancellation, we will host your data for up to 90 days after which time we reserve the right to delete it.

8. Late Payments.

Except to the extent prohibited by law, we may assess a late charge if you do not pay on time. You must pay these late charges when we bill you for them. The late charge will be the lesser of 1% of the unpaid amount each month or the maximum rate that is permitted by law. We may use a third party to collect past due amounts. You must pay for all reasonable costs we incur to collect any past due amounts. These costs may include reasonable attorneys' fees and other legal fees and costs. We may suspend or cancel your Service and any activations if you fail to pay in full on time.

During the term of this Agreement, and for a period of one (1) year thereafter, we may, at our own expense, cause an audit to be made not more than once annually (except as otherwise permitted below) of your records in order to verify reports issued and fees due or paid by you. Any audit shall be conducted by an independent, major certified public accounting firm selected by us and reasonably acceptable to you. The audit shall be conducted in such a manner as not to interfere with your normal business activities. If the auditor determines that you are not in material compliance (i.e., a discrepancy of five percent (5%)) you shall promptly remedy any such non-compliance and will bear the expense of the audit.

6. You Are Responsible For Your Service Account

Only you may use your service account. For some parts of the service, you may set up additional user accounts that are dependent on your account (an "associated account"). You are responsible for all activity that takes place with your service account or an associated account. You may not authorize any third party to access and/or use the service on your behalf.

7. Your Materials

You will be able to submit materials for use in connection with the service. Except for material that we license to you, we do not claim ownership of the materials you post or otherwise provide to us related to the service (called a “submission”). You grant us rights to use your submissions solely for the purposes of providing the services and hosting your submissions. For every submission you make, you must have all rights necessary for you to grant the permissions in this section. You represent and warrant that you have the right to upload such submissions for the purposes of use in the service and you will indemnify, defend, and hold InishTech harmless from breach of this section. Your right to submit materials applies to legally permissible content and only to the extent that use and publishing of such content does not violate laws or regulations, or infringe or violate third party rights. We will not pay for your submission. We may refuse to publish or host your content at our discretion, and may remove your submission from the service at any time.

8. Privacy

In order to operate and provide the service, we collect certain information about you. We use and protect that information as described in the privacy statement provided on this site. In particular, we may access or disclose information about you, including the content of your communications, in order to: (a) issue account statements, manage billing and support; (b) comply with the law or respond to lawful requests or legal process; (c) protect the rights or property of InishTech or our customers, including the enforcement of our agreements or policies governing your use of the service; or (d) act on a good faith belief that such access or disclosure is necessary to protect the personal safety of InishTech employees, customers or the public.

The information we collect includes user names and email addresses required for login purposes. This information is retained on the service after account cancellation as it may be required to access licence information post cancellation.

To provide you with the service, we may collect certain information about service performance, your machine and your

service use. We may automatically upload this information from your machine. This data will not personally identify you. You may read about this information collection in more detail in the privacy policy. You have the capability to store customer information, including personally identifiable information for users, within the Software Potential Service. We recommend that personally identifiable information is only stored in this way if required for legitimate business operations reasons. This information is retained on the service after account cancellation as it may be required in order to access licence information post cancellation.

9. System Software

You will not disassemble, decompile, or reverse engineer any software or other products included in the service, or attempt to do the same, except and only to the extent that the law expressly permits this activity.

You must comply with all domestic and international export laws and regulations that apply to the software. These laws include restrictions on destinations, end users and end use.

10. Termination

Termination. We may cancel your service without notice to you if you breach or violate these terms of use. We may also cancel your service after expiration of your term subscription, and do not guarantee that the service will be available in the future.

You may terminate this Agreement if we materially breach this Agreement and such breach is not cured within thirty (30) days of written notice describing the breach.

This Agreement and the licenses granted hereunder will automatically terminate if either party becomes unable to pay its debts when due or enters into liquidation (except voluntary liquidation not involving insolvency for the purposes of a reconstruction or amalgamation) or has a receiver or examiner or a person in the nature of a receiver or examiner appointed to its undertaking or assets or enters into any arrangement with its creditors.

On any termination of your access to the Service, you will cease use of the Service immediately and will return or destroy, at our option, any copies of our software or other material, in your possession or control. You will, within thirty (30) days of termination, re-engineer your Product such that no portions of the Engine are included.

11. WE MAKE NO WARRANTY

We provide the service “as-is”, “with all faults” and “as available.” We do not guarantee the accuracy or timeliness of information available from the service. The InishTech parties give no express warranties, guarantees or conditions. You may have additional consumer rights under your local laws that this contract cannot change. We exclude any implied warranties including those of merchantability, fitness for a particular purpose, workmanlike effort and non-infringement.

We do not warrant that the service will be available all the time. Although our intent is to make it highly available, it may be subject to scheduled and unscheduled maintenance, network outages, infrastructure issues, human and mechanical errors, and events of force majeure (e.g., natural disasters, malicious acts, and the like). We will make reasonable attempts to provide notice of scheduled downtime at <http://www.inishtech.com> and in any related product group forums, but cannot guarantee we will always be able to do so.

12. LIABILITY LIMITATION

You can recover from InishTech only direct damages up to the equivalent of one month of service (which may be a pro-rated amount of an amount you have paid). You cannot recover any other damages, including consequential, lost profits, special, indirect, incidental or punitive damages.

This applies, without limitation, to anything related to:

- the service and anything purchased through the service;
- viruses or other disabling features that affect your access to or use of the service;
- incompatibility between the service and other services, software and hardware;

- delays or failures you may have in initiating, conducting or completing any transmissions or transactions in connection with the service in an accurate or timely manner;
- removal or deletion of your materials or data from the service; and
- claims for breach of contract, breach of warranty, guarantee or condition, strict liability, negligence, or other tort.

It also applies even if:

- this remedy does not fully compensate you for any losses, or fails of its essential purpose; or
- InishTech knew or should have known about the possibility of the damages.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitations or exclusions may not apply to you. They also may not apply to you because your province or country may not allow the exclusion or limitation of incidental, consequential or other damages.

13. Interpreting the Contract

All parts of this contract apply to the maximum extent permitted by law. A court may hold that we cannot enforce a part of this contract as written. If this happens, then you and we will replace that part with terms that most closely match the intent of the part that we cannot enforce. The rest of this contract will not change. This is the entire contract between you and us regarding your use of the service. It supersedes any prior contract or statements regarding your use of the service. If you have confidentiality obligations related to the service, those obligations remain in force (for example, you may have been a beta tester). The section titles in the contract do not limit the other terms of this contract.

14. Assignment

We may assign this contract, in whole or in part, at any time with or without notice to you. You may not assign this contract, or any part of it, to any other person. Any attempt by you to do so is void. You may not transfer to anyone else, either temporarily or

permanently, any rights to use the service or any part of the service.

15. No Third Party Beneficiaries

This Agreement is solely for your and our benefit. It is not for the benefit of any other person, except for permitted successors and assigns under this Agreement.

16. Claim Must Be Filed Within One Year

Any claim related to this contract or the service may not be brought unless brought within one year. The one-year period begins on the date when the claim first could be filed. If it is not filed, then that claim is permanently barred. This applies to you and your successors. It also applies to us and our successors and assigns.

17. Your Notices to Us

You may notify us as stated in the portal area for the Service. We do not accept e-mail notices except where expressly stated.

18. Notices We Send You; Consent Regarding Electronic Information

This Agreement is in electronic form. We may provide required information to you in any or all of the following ways:

- by e-mail at the e-mail address you specified when you signed up for your service;
- by access to an InishTech web site that will be designated in an e-mail notice sent to you at the time the information is available; or
- through the portal site in the service.

Notices provided to you via e-mail will be deemed given and received on the transmission date of the e-mail.

19. Contracting Party, Choice of Law and Location for Resolving Disputes

These terms are between you and InishTech. You are contracting with Inish Technology Ventures Limited, 18 Crannagh Road, Rathfarnham, Dublin 14, Ireland and the laws of Ireland govern the interpretation of this Agreement and apply to claims for breach of it, regardless of conflict of law principles. All other claims, including claims regarding consumer protection laws, unfair competition laws, and in tort, will be subject to the laws of Ireland. You and we irrevocably agree to the jurisdiction and venue of the Irish courts for all disputes arising out of or relating to this Agreement.

20. Copyright and Trademark Notices

All contents of the service are Copyright © 2009-2018 Inish Technology Ventures Limited. All rights reserved. Copyright and other intellectual property laws and treaties protect any software or content provided as part of the Service. We, or our suppliers, own the title, copyright, and other intellectual property rights in the software or content. InishTech, and/or other InishTech products and services referenced herein may also be either trademarks or registered trademarks of InishTech in the United States and/or other countries. Any rights not expressly granted herein are reserved.

21. Support

Customer support is offered for the service. You may find details about our support offerings and terms at <https://www.inishtech.com>.