

RESELLER TERMS AND CONDITIONS FOR AVAYA PRODUCTS AND SERVICES

These Reseller Terms and Conditions for Avaya Products and Services ("Terms") are applicable with respect to Resellers that are buying Avaya Products and Services for their own use or further resale to End Users. For the sake of clarity, these Terms are in addition to any terms and conditions that apply to Reseller's purchases, including Ingram Micro's General Terms and Conditions of Sale available at Ingram Micro website or any specific agreement between Reseller and Ingram Micro, as well as any other Ingram Micro's or Avaya's terms and other policies that are incorporated by reference in these Terms. By ordering or reselling Avaya Products and Services, Reseller acknowledges and agrees to these Terms and to Ingram Micro's General Terms and Conditions of Sale available at Ingram Micro website. These Terms shall apply with respect to all purchases of Reseller of Avaya Products and Services and prevail over and supersede conflicting provisions in the Ingram Micro's General Terms and Conditions of Sale or in any specific agreement between Reseller and Ingram Micro. These Terms may be amended from time to time without notice at Ingram Micro's sole discretion.

I. DEFINITIONS AND INTERPRETATION

1. **"Avaya"** means, as the case may be: for purchase of Products and remote Services, (i) Avaya International Sales Limited, or (ii) any other Avaya Affiliate as advised by Avaya; and for purchase of onsite Services, the respective local Avaya Affiliate.
2. **"Avaya End User License"** means the applicable Avaya Software License Terms as posted at <http://support.avaya.com/LicenseInfo> or a successor site designated by Avaya and incorporated herein by reference. Avaya may from time to time post a successor version of the Avaya End User License, which will then automatically replace and supersede the previously applicable Avaya End User License with respect to Software licenses granted on or after the date of posting.
3. **"Channel Partner"** means a company authorized by Avaya, including without limitation Ingram Micro or Reseller, to purchase or license Avaya products or services and to resell them as so authorized.
4. **"Channel Policies"** means all the Avaya policies and programs applicable to Channel Partners, including without limitation Avaya Connect, and available on the Avaya partner portal (<https://www.avaya.com/salesportal> or successor site), as amended by Avaya from time to time.
5. **"Distributor"** or **"Ingram Micro"** means [Ingram Micro Levant S.A.L](#) with offices at St Georges Center, Bloc A, Second Floor, Jal el Dib, Mount Lebanon, Lebanon.
6. **"Documentation"** means information published by Avaya in varying media which may include Product information, operating instructions and performance specifications that Avaya generally make available to users of its Products. Documentation does not include marketing materials.
7. **"End User"** means a third party that purchases Products or Services from Reseller for the internal use by such third party and not for resale or sublicense.
8. **"Hosted SAS"** means the Avaya-provided document(s) (e.g., sometimes referred to as an offer definition or offer description document) describing the applicable service entitlements for the applicable Hosted Services, including, but not limited to, any exhibits attached thereto and terms of use or service included therein, then current as of the date of Avaya's acceptance of an order for the Hosted Services, and available upon request. Avaya may modify the Hosted SAS prospectively, at its sole option, from time to time, without notice. However, unless the Hosted SAS expressly states otherwise, the modification will not affect previously accepted orders for the remainder of the term specified in such accepted order. Any and all Hosted SAS(s) applicable to the Hosted Services ordered by Reseller are incorporated into these Terms by reference.
9. **"Hosted Services"** means the hosted software-as-a-service described in more detail in the applicable Hosted SAS.
10. **"Intellectual Property"** includes, but is not limited to, ownership, title, intellectual property rights and all other rights and interests in and to any computer programs (in object or source code format or any other form), know-how, inventions, processes, data bases, documentation, training materials and any other intellectual property and any tangible embodiments of it.
11. **"Licensed Trademarks"** means Avaya's trademarks, insignia, logos, promotional signatures, and symbols that are associated with the Products or Services and owned by Avaya.
12. **"Maintenance Services"** are services to maintain Products including incident correction and Updates and, if ordered, Upgrades, as more fully described in the applicable Service Description
13. **"Managed Services"** means Services to manage products installed in either Distributor's, Reseller's or an End User's network, which include, without limitation, automated client notifications, configuration management, incident and problem management, service desk, and monitoring, as more fully described in the applicable Service Description.
14. **"Product"** means any Avaya product, including hardware and Software, or any combination thereof, that Reseller may purchase/license and is authorized to resell under these Terms. Products do not include Third Party Products.
15. **"Professional Services"** means implementation and/or professional services, as specified in an order and as may be further described in a SOW. Professional Services do not include Maintenance Services or Managed Services. Professional Services may be performed on a time and material (T&M), one-off, or milestone basis.
16. **"Reseller"** means a company authorized by Avaya to purchase or license Products or Services from an authorized Distributor and resell them directly to End Users within the Territory.
17. **"Services"** means those Avaya Maintenance Services, Managed Services, Professional Services, Hosted Services, Google Services or other services which Distributor may purchase and resell under the Terms.
18. **"Service Description"** means the applicable Avaya Service Description or 'Service Agreement Supplement' (SAS) current as of the date of Avaya's acceptance of an order for Services and available to Distributor upon request.
19. **"Software"** means the computer programs in object code form that Reseller may order from Distributor and is authorized to resell under this Terms, whether as stand-alone Products or pre-installed on hardware, and any upgrades, updates, bug fixe modifications thereto.
20. **"Special Bids Process"** means the Avaya procedure whereby requests for decreased pricing or increased discounts for Distributor in relation to specific Resellers for the benefit of specific End Users or projects are considered by Avaya. The purpose of the Special Bids Process is to ensure that when Avaya approves a specific discount for a special bid to a Reseller for the benefit of an End User, the Reseller and ultimately the End User benefit from such discount granted by Avaya. For the avoidance of doubt, if Reseller wants to grant further discounts to End User, it may do so.
21. **"Statement of Work" or "SOW"** means a statement of work executed by Distributor and Avaya for certain Services.
22. **"Supported Products"** means: (i) hardware or Software products identified in the order for Maintenance Services or Managed Services; and (ii) products of the same type and manufacturer(s) as the existing Supported Products acquired

by Channel Partner and located with existing Supported Products at a site supported by Avaya. Supported Products may include non-Avaya branded products to the extent they are specified in the order.

23. "Terms of Use for Hosted Services" means the Terms of Use for Hosted Services found at <http://support.avaya.com/LicenseInfo>, or a successor site designated by Avaya, and incorporated herein by reference. Avaya may from time to time post a successor version of the Terms of Use for Hosted Services, which will then automatically replace the previously applicable Terms of Use for Hosted Services with respect to the Hosted Services provided by Avaya following the date of posting.

24. "Territory" means Lebanon, Jordan, and Iraq.

25. "Third Party Products" means any products manufactured or developed by a party other than Avaya, except for Avaya branded products, and may include, without limitation, products ordered by Distributor, Reseller or End User from third parties pursuant to Avaya's recommendations. However, components of Avaya branded Products are not Third Party Products if they are both: (i) embedded in Products (i.e. not recognizable as standalone items); and (ii) are not identified as separate items on Avaya's price list, quotes or Documentation.

26. "Update" means a change in the Software that typically provides a maintenance correction only. Updates are typically designated as a change in the digit to the right of the second decimal point (e.g. n.y.[z]) representing a re-release of the corrected Software version, or an issue(s)-specific correction provided in the form of a patch, service pack, maintenance release, bug fix, etc.

27. "Upgrade" means a major change to the Software that introduces new optional features and functionality. Upgrades are typically designated as a change in the digit(s) to the left of the first decimal point (e.g., [n].y.z.).

II. AUTHORIZATION

2.1 Subject to these Terms, Ingram Micro grants Reseller a non-exclusive, non-transferable, limited right to obtain certain Products and Services, as expressly listed in the Service Description, for the sole purpose of further onward resell to End User within the Territory.

2.2 Reseller shall follow Avaya's applicable installation, operation and maintenance specifications and/or Documentation when installing or providing any type of services to the Products.

III. CO-OPERATION AND CONSENTS

3.1 Reseller shall cooperate with Ingram Micro and Avaya as reasonably necessary for Ingram Micro's delivery of Products and Avaya's performance of Services in a timely manner. Reseller shall provide Ingram Micro and Avaya with interface and other information regarding access to third party products or third-party services in End User's or Reseller's network and necessary third-party consents and licenses to enable Avaya's performance under these Terms.

3.2 Reseller shall ensure that Reseller's and End User's networks and systems are adequately secured against unauthorized intrusion or attack and regularly backing up data and files in accordance with good computing practices. If Reseller fails to meet its cooperation obligations under this section or as otherwise provided in these Terms, Ingram Micro may delay or suspend its delivery of Products or performance of Services relating to Reseller's failure.

3.3 Without limiting the Section above, with respect to ordered Services, Reseller shall at its cost cause the End User to: (i) provide Avaya, its agents or subcontractors with necessary access to the Supported Products both at the premises during the agreed times indicated in the Services and remotely; (ii) co-operate in all reasonable ways with Avaya and Ingram Micro in the diagnosis, investigation and correction of any reported incident; (iii) unless otherwise required pursuant to an applicable Service Description or SOW, designate 2 authorized members of its staff to serve as points of contact with Avaya and Ingram Micro and to decide any and all issues on behalf of Reseller with respect to the provision of the Services and shall inform Avaya and Ingram Micro in writing of any changes to the designation; (iv) notify Avaya and Ingram Micro in advance of any significant configuration changes.

IV. END USER OBLIGATIONS

4.1 Reseller acknowledges and agrees that where Ingram Micro's performance and Avaya's performance under these Terms is contingent on a Reseller obligation under these, then that obligation may also apply mutatis mutandis to End Users.

4.2 Reseller shall, where applicable, ensure that End Users comply with such obligations. Where Reseller or End User fails to meet such an obligation then Ingram Micro and Avaya will not be liable for any resulting failure to perform their obligations hereunder, and Reseller shall be responsible for all actions, costs, expenses, and damages (including the purchase price of any service options or other coverage resold to an End User in excess of the service options or coverage purchased by Reseller from Ingram Micro) suffered by Ingram Micro as a result of Reseller's failure to ensure End User's compliance with End User obligations.

4.3 Reseller shall ensure End User's compliance with licensing requirements and restrictions under the Avaya End User License and shall grant Avaya the right to audit such End User's compliance. When requested, Reseller shall collaborate with Avaya's auditors and provide accurate and truthful information.

V. SOFTWARE LICENSE

5.1 Resale of Products.

Where Reseller purchases/licenses the Products and resells the Products, Avaya shall extend the Avaya End User License to End Users purchasing/licensing Products from Resellers, subject to the following conditions: (i) Reseller to communicate to each End User in writing the license types applicable to the Products ordered by such End User; (ii) Reseller to obtain End User's written agreement to the Avaya End User License prior to or upon Reseller's acceptance of the applicable order from End User either by causing an authorized representative of the End User to (a) sign a paper copy of the then-current Avaya End User License or other agreement that includes verbatim, and not merely by reference, the terms of the then-current Avaya End User License, or (b) electronically or digitally sign or otherwise indicate End Users' assent (such as by "click wrap", "click-through", "click and accept" and "web-wrap" agreement) to the terms of the then-current Avaya End User License in a manner that is the legal equivalent of a signed paper copy that preserves and authenticates verbatim the terms of the Avaya End User License to which the End User agreed; (iii) Reseller not to agree to any contractual limitations on End User's liability for violations of Avaya's Intellectual Property Rights, including through breaches of a software license or reverse engineering; and (iv) Reseller to maintain a copy of each End User's agreement to the Avaya End User License in a form that accurately records and preserves the language in the Avaya End User License to which each End User agreed and the name of the authorized representative of the End User who legally bound End User, and provide a copy of same to Ingram Micro and/or Avaya upon request.

Avaya may from time to time post at <http://support.avaya.com/LicenseInfo> or a successor site designated by Avaya a modified version of the Avaya End User License, which will then become the "then-current End User License" which Reseller must use to comply with the provision of this Section V.

5.2 New Software Delivered in the performance of Services.

Where Services include provision of patches, Updates or Upgrades for Supported Products ("New Software"), Avaya will provide them subject to the license grant and restrictions contained in the original agreement under which Reseller or End User licensed the original software from Avaya. Where there is no existing license from Avaya, New Software will be provided subject to the manufacturers then current license terms and restrictions for the New Software. New Software may include components provided by third party suppliers that are subject to their own end user license agreements. Reseller or End User may install and use these components in accordance with the terms and conditions of the "shrinkwrap" or "clickwrap" or "click through" end user license agreement accompanying them.

5.3 Audit Rights

Reseller undertakes that: (i) the Software, and all copies thereof, including translations, compilations, derivative works and partial copies, are and shall at all times remain the property of Avaya or its licensor; and (ii) Avaya may, at its discretion, electronically audit each system configuration containing Products sold by or to Reseller, to verify compliance with the license provisions of these Terms, including (among other things) the terms of the software license as it relates to the enablement of any separately licensed features or incremental units of capacity. Such an audit may be conducted upon 24 hours notice. Reseller shall cooperate with Avaya and Ingram Micro in conducting such audits.

5.4 Indemnification

Reseller shall indemnify Ingram Micro for all claims, actions, costs, expenses and damages (including without limitation reasonable attorney's fees and costs) suffered by Ingram Micro as a result of Reseller's failure to obtain End User's written agreement to the Avaya End User License or other failure to comply with the requirements of this Section V.

5.5 Termination of License

Ingram Micro may terminate the license granted under this Section V if, within 10 days of Reseller's receipt of written demand to cure, Reseller has not cured all breaches of license limitations or restrictions. Upon such termination, Reseller shall immediately pay all outstanding license fees, cease use of all Software, return or delete, at Ingram Micro's request, all copies of the Software in Reseller's and the affected End User's possession and certify compliance with all of the obligations in this Section V to Ingram Micro in writing.

VI. TERMS OF USE FOR HOSTED SERVICES.

6.1 Reseller's obligations

Reseller shall: (i) communicate to End Users any applicable license information and, if applicable, provide to End Users any Avaya-provided cloud service description document for End Users pertaining to the Hosted Services, which is available from Avaya upon request, (ii) obtain End User's written agreement to the Terms of Use for Hosted Services prior to or upon Reseller's acceptance of the applicable order from End User; (iii) not agree to any contractual limitation on the End User's liability for violation of Avaya's Intellectual Property rights with respect to the Hosted Services; and (iv) maintain a copy of each such written agreement to such Terms of Use for Hosted Services and Avaya and/or Ingram Micro shall have the right to obtain a copy of the same upon request. This provision in no way nullifies, limits, or voids Reseller's obligations in these Terms with respect to flowing through the Avaya End User License to End Users.

6.2. Use by Reseller

If and to the extent the Reseller are authorized by Avaya to use the Hosted Services and content obtained through the use of the Hosted Services (e.g., for support purposes, etc.), Reseller shall use such Hosted Services consistent with Avaya's authorization and only in accordance with the Documentation, the Terms of Use for Hosted Services, the Hosted SAS, and applicable laws and government regulations.

6.3 Indemnification

Reseller shall defend, indemnify, and hold Ingram Micro harmless from all claims, actions, costs, expenses and damages (including without limitation reasonable attorney's fees and costs) suffered by Ingram Micro as a result of Reseller's failure to obtain an End User's written agreement to the Terms of Use for Hosted Services or other failure to comply with this Section VI.

6.4.Unauthorized Access or Use.

Reseller will use best efforts to prevent unauthorized access to or use of the Hosted Services.

6.5 Removal of content.

If Avaya is required by a licensor to remove content or receive information that content which Reseller has obtained as a result of use or access of the Hosted Services may violate applicable law or third-party rights, Ingram Micro reserves the right to notify Reseller and, in such event, Reseller will promptly remove such content from Reseller's systems.

VII. SPECIAL DISCOUNTS FOR PARTICULAR DEALS

Avaya may at its sole discretion approve a decrease of prices or increase of discounts for Ingram Micro in relation to specific Resellers and End Users in accordance with the Special Bids Process. Reseller agrees to comply with any specific terms and conditions which Avaya imposes on the approved special bid for a specific End User. For the avoidance of doubt, if Reseller wants to grant further discounts to End User, it may do so. Reseller agrees that Ingram Micro and Avaya Reseller have the right to audit all documents related to the Special Bids Process. Reseller will ensure that End User will waive any and all confidentiality restrictions which would prevent Ingram Micro from sharing with Avaya documents that Avaya requests as part of any audit related to Special Bids Process.

VIII. COMPLIANCE WITH BRANDING GUIDELINES. Reseller shall use and apply the Licensed Trademarks in accordance with Avaya's Branding Guidelines as set forth in the Channel Policies.

IX. RESTRICTIONS

Reseller agrees not to register, in the Territory or any other country or jurisdiction, any name, logo, or mark identical to or confusingly similar to the Licensed Trademarks and will not register internet domain names with any of the Licensed Trademarks. Reseller shall not, directly or indirectly, do, omit to do, or permit to be done, any act which will or may dilute the Licensed Trademarks or tarnish or bring into disrepute the reputation of or goodwill associated with the License Trademarks or Avaya or which will or may invalidate or jeopardize any registration of the Licensed Trademarks.