

All references to Intercede in these Terms and Conditions should be read as “Contractor (immixTechnology, Inc.), acting by and through its supplier, Intercede.”

TERMS AND CONDITIONS FOR INTERCEDE PRODUCTS AND SERVICES

1. Definitions.

(A) “**Authorized Reseller**” means one or more solution providers, service providers or resellers who market, demonstrate and arrange for licensing of MyID Products.

(B) “**Documentation**” means the manuals, handbooks and other written materials related to the use of the MyID Products, whether in hard copy or soft copy form, that Intercede provides and that customarily accompany the MyID Products.

(C) “**MyID Products**” mean the MyID Software and Documentation provided to Customer under this Agreement.

(D) “**MyID Software**” means the software licensed by Customer under this Agreement, consisting of a series of instructions or statements in machine-readable, object code form only.

2. License.

(A) License for MyID Software. Intercede hereby grants, and Customer hereby accepts, a non-exclusive, non-transferable license to use the MyID Software in accordance with the instructions contained in the Documentation. Customer may make a reasonable number of copies of (1) the MyID Software for backup, testing, disaster recovery or archival purposes only and (2) the Documentation for its internal use only, so long as Customer also reproduces on such copies any copyright, trademark or other proprietary markings and notices contained on the MyID Software and Documentation and does not remove any such marks from the original.

(B) Restrictions on License for MyID Software.

(1) Incorporation of Restrictions in Invoice and Other Documents. Customer’s purchase order, sales quotation or invoice, or user license certificate for the MyID Products may contain limitations with respect to the number of users, servers, asserting and relying parties, functionality options and/or other restrictions. In such a case, such limitations and restrictions are incorporated herein by reference.

(2) Restrictions on Access, Copying and Sublicensing. Customer shall not cause or permit (a) access (except to its employees, agents and consultants with a “need to know” who are bound in writing by non-disclosure obligations suitable to protect Intercede’s interests in the MyID Software but no less restrictive than Customer’s obligations herein), (b) copying (except as set forth in Section 2(A) above), (c) disclosure to any third party of the results of any benchmarking or competitive analysis of the MyID Software that Customer may perform, or (d) sublicensing or other dissemination of the MyID Software, in whole or in part, to any third party without Intercede’s prior written consent.

(3) Third Party Software. If the MyID Software contains or is bundled with third party software, then Customer may use such third party software solely (a) for the purpose such software is included with the MyID Software

and (b) for use with the particular MyID Software that Customer has licensed from Intercede as set forth in the Documentation. Customer shall not use any third-party software embedded in or bundled with the MyID Software as a standalone program or in any way independently from the MyID Software.

(4) No Modification of MyID Software. Customer shall not modify, enhance, translate, supplement, create derivative works from, reverse engineer, reverse compile or otherwise reduce the MyID Software to human readable form without Intercede's prior written consent.

3. Ownership and Intellectual Property Rights.

(A) Ownership of MyID Products. Intercede is the exclusive owner of the MyID Software and Documentation (including revisions, modifications and enhancements thereto) and any other specifications, documentation, ideas, know-how, techniques, processes, inventions or other intellectual property that Intercede may develop, conceive or deliver under this Agreement, including all patents, copyrights and other intellectual property rights thereto.

(B) Ownership of Trademarks. By this Agreement, Customer acquires no rights of any kind in or to any Intercede trademark, service mark, trade name, logo or product designation and shall not make any use of the same for any reason except as expressly authorized by this Agreement or otherwise authorized in writing by Intercede. Customer shall cease to use in any manner such markings or any similar markings upon the expiration or termination of this Agreement.

4. Reserved.

5. Warranty.

(A) MyID Software Warranty. Intercede warrants that the MyID Software will operate in material conformance to the Documentation for such MyID Software during the first 90 days after Customer's initial receipt of the MyID Software (the "**Warranty Period**"). Intercede does not warrant, however, that the MyID Software or any portion thereof is error-free. If Customer discovers a non-conformity in the MyID Software during the Warranty Period, then Customer shall submit to Intercede a written report describing the non-conformity in sufficient detail to permit Intercede to reproduce such non-conformity. If Intercede successfully reproduces the reported non-conformity and confirms that it is a non-conformity, then Intercede shall use reasonable efforts, at its option, to (1) correct the non-conformity, (2) provide a work around or software patch (a "**Fix**"), or (3) replace the MyID Software. If Intercede determines that none of these alternatives is reasonably available, then, upon Customer's request, Intercede shall refund any payments that Customer has made for the affected MyID Software and accept its return. This warranty applies only to the initial delivery of the MyID Software. All Fixes provided by Intercede constitute MyID Software hereunder and are governed by the terms hereof. Intercede warrants that each Fix will operate in material conformance to the Documentation for the applicable MyID Software during the first 30 days after Customer's initial receipt of such Fix or during the remainder of the initial Warranty Period, whichever is greater.

(B) Limitations of Warranty. The foregoing warranties do not apply if (1) repair or replacement is required as a result of causes other than normal use, including, without limitation, repair, maintenance or modification of the MyID Products by persons other than Intercede authorized personnel; Customer's accident, fault or negligence; operator error; Customer's failure to incorporate any Fixes that Intercede makes available to Customer; use of the MyID Products other than as set forth in the Documentation; or causes external to the MyID Products such as, but

not limited to, failure of electrical power or fire or water damage; or (2) the MyID Products are used with software or equipment other than that for which they were designed as set forth in the Documentation.

(C) WARRANTY DISCLAIMER. OTHER THAN INTERCEDE’S EXPRESS WARRANTIES SET FORTH IN THIS SECTION 5, INTERCEDE AND ITS LICENSORS DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER’S SOLE REMEDY FOR BREACH OF SUCH EXPRESS LIMITED WARRANTIES IS A CORRECTION, FIX OR REFUND AS SET FORTH IN THIS SECTION 5.

6. Inspection/Acceptance.

The Contractor (immixTechnology, Inc.) can only, and shall only tender for acceptance those items that substantially conform to the software manufacturer’s (“Intercede”) published specifications. Therefore, items delivered shall be considered accepted upon delivery. The Government reserves the right to inspect or test any supplies or services that have been delivered. The Government may require repair or replacement of nonconforming supplies or re-performance of nonconforming services at no increase in contract price. If repair/replacement or re-performance will not correct the defects or is not possible, the Government may seek an equitable price reduction or adequate consideration for acceptance of nonconforming supplies or services. The Government must exercise its post-acceptance rights-

- (1) Within the warranty period; and
- (2) Before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

7. Reserved.

8. Reserved.

9. Reserved.

INTERCEDE SERVICE LEVEL AGREEMENT

1. INTRODUCTION

1.1 Purpose of the Service Level Agreement

This Service Level Agreement (SLA) provides an understanding of the service level expectation and defines a benchmark for measuring the performance of the service.

1.2 Service Level Agreement Period

This SLA will remain valid for the period specified on the applicable ordering document.

2. Incident Reporting

All incidents must be reported through to the Help/Support Desk. Support will only be available between 9.00 am and 5.00 pm EST during normal US working hours, excluding US public holidays. Support will only be given using the English language.

Any support required outside this agreement must be agreed separately and Intercede reserve the right to make a time and materials based charge for this support.

The help desk can be contacted via support@intercede.com. All requests for support must be made by agreed nominated contacts (NC) from within the Ordering Activity. There will be 2 valid nominated contacts that have appropriate knowledge of the Intercede product set. Ordering Activity can purchase the right to nominate more than 2 nominated contacts on a separate ordering document.

Prior to any call to the help desk, it is the nominated contacts responsibility to check all basic system pre-requisites as defined in the manual, including troubleshooting. Intercede reserve the right to make a charge for support calls that fall into this category, by not being fully pre-checked.

All requests for support must provide details of the Company Name, Product Name and version, System details and a description of the issue, and where appropriate system and product log files.

All support calls will be registered in a call logging system, assigned a severity code, and allocated a unique reference number. Nominated contacts will be advised of the unique reference number on receipt of the support call. This severity code would be determined by agreement between Intercede Ltd and the nominated contact. The call would then be managed to resolution by Intercede

Any activities relating to each incident will be logged in the call logging system for monitoring and management reporting.

Once reported, all incidents will remain active, until Ordering Activity agrees to the successful resolution of the issue. At this stage the incident will be closed.

In the unlikely event that an on-site visit is required to resolve the support issue, Intercede reserve the right to make a charge for support and/or expenses dependent on the source of the issue.

2.1 Severity Codes

- Severity - High
Critical part of system unavailable or major (or potentially major) impact on business.
Target response: 4hrs (and regular updates every hour) unless the call is placed after 4pm EST during the working day, in which case during the next working morning.

- Severity - Medium
Part of system unavailable but non-critical as the users can adapt business practices to get around the problem in the short term.
Target response: Same day unless call is placed after 10am EST, in which case next day.

- Severity - Low
No immediate impact on business, inconvenient errors.
Target response: Next working day or as agreed with the caller requesting support

2.2 Incident Progressing

Each incident will remain with the support department who will update the status of the incident as each action is taken. Responsibility for the incident will remain with the Intercede Ltd support department to manage through to resolution to sign off by Ordering Activity.

Should further information be required the Intercede support department will contact the originator of the incident. If the originator contacts the Help/Support Desk with regard to a specific incident, the incident reference number must be quoted.

2.3 Escalation Procedures

Best endeavours will be made to answer calls effectively and it is expected that the customer will provide all such details as are requested by Intercede to help to resolve the given issue.
Intercede will process each call log to a completion agreed with the customer.

If the incident is not responded to within the agreed times specified against severity (as in 2.1), Ordering Activity may initiate the relevant escalation procedure.

The levels of escalation would be agreed and will typically be:

	Intercede	Ordering Activity
Level 1	Help/Support Desk	Nominated Contact
Level 2	Support Manager	IT / Project Manager
Level 3	Product Manager	Director

The levels assigned to the functions above are used in the escalation procedures shown below:

Severity - High	Level 2 Level 3	When incident reported Within 4 hours
Severity - Medium	Level 2 Level 3	Within 1 day Within 5 days
Severity - Low	Level 2	Within 5 days or As agreed

NOTE: Both Intercede and Ordering Activity will be responsible for communicating to the appropriate personnel within their respective organisations should escalation be necessary.

3. Problem Management

The Intercede Help/Support Desk would monitor incidents using response and resolution targets.

Response means the support team acknowledging receipt of the incident to the Ordering Activity nominated contact, agreeing the severity of the call, requesting further information as necessary, and conducting an initial investigation into the incident.

Resolution means providing an agreed solution to the problem. This could take the form of a short-term work around to meet the immediate need, or an agreement that the problem will be resolved in the next product release.

Intercede can 'stop the clock' while awaiting action or information (such as log file) from Ordering Activity.