McFate Support Services Inc. Terms of Service

IOtech® Vibration Analysis Systems Technical Training - Domestic

IOtech® products are designed and manufactured by National Instruments ("NI"). All software is used by the customer under a licensing agreement between the customer and NI. McFate Support Services Incorporated ("McFate-Inc") is an independent business entity incorporated in the State of Tennessee and is not affiliated with, employed by or a subsidiary of NI.

IOtech® is a registered trademark of NI. The Mark is used under a license agreement between McFate-Inc and NI. McFate-Inc provides technical support, customer training and consulting services to end users of the IOtech® Vibration Analysis products. McFate-Inc also serves as an authorized reseller of IOtech® Vibration Systems hardware and associated software products under an agreement between McFate-Inc and NI.

McFate-Inc agrees to provide [Customer Name] [Customer Address] with Technical Services identified below, for IOtech® Vibration Analysis System Hardware and Software products with the following terms and conditions:

A. IOtech® Technical Training Services

1. Training personnel affiliated with McFate Inc are certified under ISO 18436-2:2014, Condition Monitoring and Diagnosis of Machines. Our instructor has over twelve years' experience on the platform, initially employed by IOtech® in 2005 and transferring to National Instruments in 2010. Our training personnel are not multilingual. All instruction and documentation will be provided in English.

2. The training goal is defined as providing a thorough understanding of the function, capability, operation and application of the customers' IOtech® hardware and software products

3. Class size is not restricted, however, it is strongly recommend that the number of attendees be limited to 10 or fewer to allow the best opportunity for participation and retention of the provided information.

4. Structure: All training provided by McFate-Inc is designed to be 'hands-on'. Attendees will require computers to actively participate in the session. Instruction is not 'lecture and slides'. IOtech® software will be installed on these computers and temporary activation codes provided. Recommended operating systems for these computers is Windows 7, 32 or 64 bit. (Other windows operating systems can be accommodated if required. Please discuss compatibility with your instructor.) At minimum, one computer will be required for every two attendees.

5.   All customers investing in IOtech® Technical Training Services will receive a one-year Support Services Contract on their IOtech® Acquisition System(s) at no cost. This contract may be renewed annually if desired. The customer is required to provide the model and serial numbers for their system(s), allowing McFate-Inc to draft the customer's Support Services Contract and issue the required identification labels for the customers' equipment. A Mutual Non-disclosure Agreement is an integral part of all Support Services Contracts. (ref: section **F**)

6.   If purchasing multiple days of Technical Training these days will be scheduled sequential.

7.   Travel Time for McFate-Inc training personnel is billable at a reduced daily rate (50%). The minimum number of days subject to billable Travel compensation is two (2) days.

8.   All travel related costs and expenses incurred by McFate-Inc for travel of our training personnel will be the responsibility of McFate-Inc and compensated by a daily per-diem fee paid by the customer. This fee will be in addition to the agreed daily rate for Technical Training Services and billable Travel. Per-diem will cover all travel related expenses, air transport, rental car, fuel, accommodations, meals and any incidental expenses incurred by our trainer while in-transit and while on-site. The minimum number of days subject to per-diem will be three (3) consecutive days. Per-diem will be *payable in advance*. No travel will be initiated prior to these fees being received by McFate-Inc.

B.   Excluded Services

1.   McFate-Inc does not provide diagnostic services or evaluation of customer data. No judgement of machinery health, condition, safety or suitability for operation is expressed or implied.

2.   McFate-Inc serves as a technical support resource to the customer for IOtech® Hardware and Software products in their current, released state. McFate-Inc is not authorized to modify, update, re-engineer, enhance or alter the products in any manner.

3.   McFate-Inc does not serve as a Warrantee guarantor, facilitator or intermediary between the manufacturer and the customer. IOtech® Product Warrantee is the sole responsibility of NI. Warrantee issues must be referred to, and remedied by National Instruments.

C.   Customer Requirements for Technical Training - Domestic

1.   Customer will recommend local accommodations and transportation options that will insure the personal health and safety of McFate-Inc personnel while on-site. Customer will not be required to provide or

purchase local accommodations, but assistance in reserving and booking is greatly appreciated.

2. The customer will notify McFate-Inc of any company requirements for site access. These requirements may include security / background checks, plant / site safety training, specific safety clothing, etc. Our training personnel will comply with all company requirements for site access.

3. Customer will provide a room appropriate for conducting the course. This room will be equipped with a computer projector or other large screen monitor that can be easily viewed by all attendees. Large white-board and markers or large flip-charts will be provided. The room will have work-tables available for student computers, acquisition hardware, demo equipment and assorted other equipment. This room will be secured overnight and while unoccupied, allowing equipment and personal items to remain in the training room without risk.

4. Electrical power will be required at all work tables.

5. Attendees will be required to install IOtech® software on their computers. Software installation and network configuration rights will be required. If the company's IT policy restricts administrative rights on the students' computers, company IT personnel will be available to assist in installation and configuration of these systems.

6. IOtech DSA Hardware Availability: The Customer's IOtech® hardware will be available for use during the training session. At minimum, one IOtech® DSA unit should be available for every two attendees. DSA units for the IOtech® Vibration Platform include the ZonicBook 618e, 672u, 652u, 650u and 640u. McFate-Inc has a limited number of demo systems and these can augment your company equipment if required. Communicate your equipment needs to McFate-Inc early in the planning process.

7. Training schedule is typically 8:00 am to 5:00 pm. This schedule is flexible and will be adjusted to accommodate the requirements of the company and attending personnel. A one-hour lunch break is scheduled. Lunch arrangements for the attendees and instructor will be the responsibility of the host company.

8. The instructor will require access to the training room prior to scheduled class start time. This is best scheduled for the afternoon of the day prior to the first day of instruction, but can be managed in the early morning of the first scheduled training day if necessary. Customer supplied IOtech® DSA hardware will be available at this time. Room set-up can generally be accomplished in about one hour. If scheduling a shared conference room, it is recommended that the room be reserved for an hour or more at the close of business the day prior to training for set-up.

9. A clearly readable roster of the training participants with proper names, departments, and job titles will be provided prior to initiation of travel. This roster will be used to prepare certificates validating and documenting the students' successful completion of IOtech® Training.

D. Term

Upon acceptance, these Terms of Service will remain in effect until completion of the offered Training Service. Subsequent Training Services, if requested, may be subject to modification of terms.

E. Compensation

1. Training Services: Daily rate for IOtech® Customer Technical Training - Domestic, will be $[XXXX.XX] US.

2. Travel Time: Daily Rate will be $[XXXX.XX] US.

3. Per-diem: Daily rate will be $[XXXX.XX] US.

4. Payment Terms: Per-diem will be *payable in advance*. Travel will not commence prior to the contracted and agreed per-diem fee being received by McFate-Inc. Technical Training and Travel / Prep fees may be subject to terms related to delivery or completion of services at the discretion of McFate-Inc.

5. Taxes: These fees are exclusive of any federal, state or local sales or excise taxes. Customer will be responsible for payment of such taxes.

F. Confidentiality

1. McFate-Inc shall consider all customer data confidential. McFate-Inc will not disclose or share confidential or privileged information regarding the customer with any third party.

2. Communication between McFate-Inc and the customer, in writing, email, or in conversation will be considered confidential.

3. McFate-Inc and the customer shall execute a Mutual Non-Disclosure Agreement protecting the interests of both parties. This agreement will be considered an integral section of this contract.

G. Limitation of Liability

1. McFate-Inc will not be liable for any claims arising under this Agreement, whether under warranty breach or otherwise, including those for any special, direct, indirect, incidental or consequential damages, including but not limited to lost profits, loss of revenue, loss of data, or loss of use,

whether in contract, tort, breach of warranty, or otherwise. Customer's sole and exclusive remedy will be McFate-Inc' choice of either reperformance of the services or a pro rata refund of the Support Services Fee.

2**.** McFate-Inc will not provide support for altered, mishandled, abused or modified software; derivative works; a defect in software distribution media and/or software function which causes material performance failure, or any other defect, which is caused by Customer negligence or hardware malfunction; software problems which do not significantly impair or affect the operation of the software; or software problems due to any forces external to the software and beyond McFate-Inc's control. McFate-Inc may refuse to provide or may suspend support services on any software for which a valid license or sublicense is not in effect, or in which such licenses have been breached in a material manner.

H. Force Majeure

The performance of the Agreement may be suspended by either party in the event performance is prevented by a cause or causes beyond the reasonable control of such party. Such causes shall include, but not be limited to, acts of God, war, riot, fire, explosion, accident, flood, or sabotage, government laws, regulations, injunctions or restraining orders.

I. Attorney Fees

If either party commences a legal action or otherwise employs an attorney to enforce any provision of this Agreement, the prevailing party's reasonable attorney's fees and all costs incurred in enforcing this Agreement will be paid by the opposing party. That amount will be included in the principal amount of any judgment obtained.

J. Miscellaneous

1. This Agreement constitutes the entire agreement between the parties and supersedes all previous understandings, whether oral or written, relating to the subject matter. Its validity, interpretation and performance will be governed and construed in accordance with the laws of the State of Tennessee.

2. This Agreement cannot be modified, amended or supplemented except by written consent of McFate-Inc.

3. If any provision of this Agreement becomes invalid or unenforceable due to a decision by a court of competent jurisdiction or any legislative action, the remaining portions of the Agreement will remain in full force and effect.

4. The failure of either party to enforce any provision of the Agreement will not be construed as a waiver of such provision or of the right of either party thereafter to enforce any provision of this Agreement.

5. The products covered by this agreement are manufactured and licensed by National Instruments, All right, title and interest to all software and its associated documentation belongs to National Instruments.

Acceptance of Terms

By signing below, [Customer Name] [Customer Title] of [Company Name] [Customer Address] certifies that they have read and understand these Terms of Service offered by McFate-Inc for IOtech® Vibration Analysis Systems Technical Training – Domestics, and accepts these Terms of Service in their entirety.

[Company Name]

By: _____   Date: _____
      [Customer Name]
      [Customer Title]