

**1. APPLICATION**

- 1.1 These Master Terms and Conditions ("MTC") shall apply to the provision of IT Manage Services and Goods by the Supplier to the Customer.
- 1.2 In the event of ambiguity, inconsistency or conflict between these MTC, and any other documents, terms and conditions (of the Customer or otherwise), unless expressly otherwise agreed by the Supplier in writing, the priority of the documents will be construed in accordance with the following sequence (in descending order of precedence):
- 1.2.1 MTC; and
  - 1.2.2 Service Order Form
  - 1.2.3 Network Service agreement
  - 1.2.4 any applicable Services Schedule
  - 1.2.5 any other document forming part of the Contract.
- 1.3 The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, a purchase order or other request or correspondence for services or goods shall not govern the Contract.
- 1.4 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the Supplier which is not set out in the Contract.

**2. DEFINITIONS AND INTERPRETATION**

2.1 In this MTC, unless the context otherwise requires, the following expressions have the following meanings:

<b>"Business Day"</b>	any day (other than Saturday and Sunday, or any day designated as a Supplier holiday) on which ordinary banks are open for their full range of normal business in London;
<b>"Calendar Month"</b>	a period of time consisting of thirty days in April, June, September and November, and of thirty-one days in the remainder of the months, except February, which consists of twenty-eight days, except in a leap-year, when the intercalary day is added, making twenty-nine days.
<b>"Customer"</b>	the party described as such on the Service Order Form;
<b>"Customer Data"</b>	any information that is provided by the Customer to the Supplier as part of the Customer's use of the Services, including any information derived from such information.
<b>"Customer Equipment"</b>	the Customer's computing environment (consisting of hardware, software and telecommunications networks) that is to be used by the Customer in connection with its use of the Services;
<b>"Customer Sites"</b>	the locations or premises occupied by the Customer at which the Customer Equipment is located and at which it receives the Services, as set out on the Service Order Form (SOF);
<b>"Confidential Information"</b>	all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives, advisers or subcontractors involved in the provision or receipt of the Services (together, its <b>Representatives</b> ) to the other party and that party's Representatives in connection with the Contract which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure;
<b>"Contract"</b>	the Agreement or Contract entered into by the Customer and the Supplier to which these MTC apply;
<b>"Delivery Date"</b>	the date on which the Goods are sought to be delivered to the Customer as set out on the Service Order Form (SOF) or as otherwise agreed;
<b>"Extended Term"</b>	a term which commences at the end of the Initial Term and at the end of every Extended Term, as set out on the Service Order Form (SOF);
<b>"Fees"</b>	any and all sums payable by the Customer to the Supplier arising out of the performance of the Supplier's obligations under these MTC, as set out on the Service Order Form (SOF) or as otherwise advised;
<b>"Good Industry Practice"</b>	the standards that fall within the upper quartile of a skilled and experienced provider of business-critical services similar or identical to the Services, having regard to factors such as the nature and size of the parties, the Services Schedule, the term of the Contract, the pricing structure and any other relevant factors;
<b>"Goods"</b>	means the goods, hardware or equipment (including any installation of the goods, hardware or equipment or any parts for them) which the Supplier is to supply in accordance with these MTC;
<b>"Initial Term"</b>	the initial term set out on the Service Order Form (SOF);
<b>"Intellectual Property Rights"</b>	patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other Intellectual Property Rights, in each case whether registered or unregistered, and including without limitation all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world;
<b>"Rate Card"</b>	the Supplier's Rate Card setting out the current labour and Service rates, measured in hourly, daily or project increments, and as updated from time to time;
<b>"Service Order Form" (SOF)</b>	the contractual document containing details of the Services;
<b>"Service Start Date"</b>	the date set out on the Service Order Form (SOF) on which the Services will commence;
<b>"Services"</b>	the services to be provided by the Supplier to the Customer as set out on the Service Order Form (SOF);
<b>"Service Schedule" (SS)</b>	means the Service Schedule document defining the unique aspects of any Services and how they are to be delivered;
<b>"Services Specification"</b>	means the schedule described as such on the Service Order Form (SOF) setting out the Services being provided by the Supplier to the Customer;
<b>"Software"</b>	any and all programs, applications, instructions or similar that may from time to time be installed on the Customer Equipment, including any software owned by a third party ( <b>Third-Party Software</b> ), by the Customer ( <b>Customer Software</b> ) or by the Supplier ( <b>Supplier Software</b> );
<b>"Supplier"</b>	Bamboo Technology Group Ltd, 2 <sup>nd</sup> Floor, GC Campus, Princess Elizabeth Way, Cheltenham, GL51 7SJ;
<b>"Term"</b>	the Initial Term (or, if terminated earlier any portion thereof) and any Extended Term(s);
<b>"Work Product"</b>	All deliverables and all other reports, documents, materials, techniques, ideas, concepts, trademarks, know-how, algorithms, software, computer code, routines or subroutines, specifications, plans, notes, drawings, designs, pictures, images, text, audio-visual works, inventions, data, information and other items, expressions, works of authorship or work product of any kind that are authored, produced, created, conceived, collected, developed, discovered or made by the Supplier in connection with the Services or which they relate in any manner to the Services or which result from any work performed by the Supplier for the Customer, including any and all Intellectual Property Rights therein.

2.2 Unless the context otherwise requires, each reference in these MTC to:

- 2.2.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - 2.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - 2.2.3 a clause or paragraph is a reference to a clause of these MTC (other than the Schedules) or a paragraph of the relevant Schedule.
  - 2.2.4 a "Party" or the "Parties" refer to the parties to these MTC.
- 2.3 The headings used in this MTC are for convenience only and shall have no effect upon the interpretation of this MTC.
- 2.4 Words imparting the singular number shall include the plural and vice versa.
- 2.5 References to any gender shall include the other gender.

**3. SUPPLIER OBLIGATIONS**

- 3.1 With effect from the Service Start Date the Supplier shall, in consideration of the Fees being paid in accordance with the payment terms in Clause 7, provide the Services identified in the Services Specification, or otherwise agreed under these MTC.
- 3.2 The Services will commence on their respective Service Start Dates, and will continue for their respective terms specified on the SOF.
- 3.3 The Supplier shall use reasonable endeavours to perform the Services identified in the Service Specification or otherwise agreed under these MTC, in accordance with
- 3.3.1 Good Industry Practice;
  - 3.3.2 The relevant Services Schedule;
  - 3.3.3 Reasonable care and skill; and
  - 3.3.4 All applicable laws.
- 3.4 The Supplier shall use reasonable endeavours to act in accordance with all reasonable instructions given to it by the Customer provided such instructions are compatible with the scope of the Services.
- 3.5 The Supplier will ensure that it maintains a public liability insurance policy with a reputable insurer for the duration of the Contract.
- 3.6 Any Goods supplied by the Supplier to the Customer will be provided in accordance with Clause 5, unless otherwise agreed in writing.

**4. CUSTOMER'S OBLIGATIONS**

- 4.1 The Customer shall, throughout the Term of the Contract:
- 4.1.1 co-operate with the Supplier in the provision of the Services;
  - 4.1.2 perform any tasks that the Supplier may reasonably require in order to help correct technical problems (such as restarting computers or checking cables);
  - 4.1.3 provide in a timely manner such access to the Customer's premises and data, and such office accommodation and other facilities as deemed necessary in supporting the services, as is requested by the Supplier;
  - 4.1.4 allow the Supplier the use of any Equipment, IT infrastructure, computer systems, peripherals or other hardware necessary to enable it to provide the Services;
  - 4.1.5 provide in a timely manner such information as the Supplier may request, and ensure that such information is accurate in all material respects; and accept that the Supplier is reliant upon the information given to it by the Customer and not liable for any deficiencies due to errors or omissions in the information given;
  - 4.1.6 be responsible (at its own cost) for preparing the relevant premises for the supply of the Services.
- 4.2 Unless otherwise agreed and set out on a Service Order Form (SOF), the Customer shall create regular data backups in such a manner as to minimise any potential data loss and to ensure that these are made available to the Supplier as required.
- 4.3 The Customer agrees to seriously consider implementing any reasonable recommendations that may be made by the Supplier.
- 4.4 The Customer Equipment is protected against the threat of virus infection by maintaining suitable, up to date antivirus software.
- 4.5 The Customer Equipment is protected at point of egress by suitable firewall equipment or software.
- 4.6 The Customer shall notify the Supplier of any problems relating to equipment as soon as possible.
- 4.7 The Customer must notify the Supplier before any strategic changes are made to the Customer Equipment. Strategic changes may include (but will not be limited to) moving equipment to a new location (other than during ordinary or intended use), changing 3<sup>rd</sup> party vendors and so forth.

**5. GOODS AND EQUIPMENT**

- 5.1 Illustrations, photographs or descriptions whether in catalogues, brochures, price lists, quotations or other documents issued by the Supplier are intended as a guide only and shall not be binding on the Supplier. The Supplier shall incur no liability to the Customer for misrepresentation by virtue of any statement made by, or on behalf of, the Supplier with reference to the Contract, whether orally or in any letter, document or sales literature and the Customer shall not be entitled to rescind the Contract on the grounds of any such misrepresentation.
- 5.2 The Supplier reserves the right to make any changes in the specification of the Goods which are required to conform to any applicable safety or other statutory or regulatory requirements or, where the Goods are to be supplied to the Customer's specification, which do not materially affect their quality or performance.
- 5.3 The Supplier reserves the right, by giving notice to the Customer at any time before delivery or provision, to increase the price of the Goods to reflect any increase in the cost to the Supplier which is due to any factor beyond the control of the Supplier (including, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, taxes or levies, significant increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities or specifications for the Goods which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Supplier adequate information or instructions or any other factor beyond the Supplier's reasonable control.
- 5.4 Except as otherwise stated, all prices are exclusive of VAT and carriage and are subject to the Supplier's right to require payment of delivery charges, insurance costs, customs duties, special handling charges and/ or packaging charges, as appropriate.
- 5.5 Delivery of the Goods shall be made by the Supplier delivering the Goods to the place in the United Kingdom specified in the SOF or in writing from the Customer prior to order or, if no place of delivery is so specified, shall be made to the Customer's main recorded trading address stated within the Contract or by the Customer collecting the Goods at the Supplier's premises at any time after the Supplier has notified the Customer that the Goods are ready for collection.
- 5.6 The Delivery Date is approximate only and is not a condition, warranty or innominate term of this or any other Contract. The Goods may be delivered by the Supplier in advance of the Delivery Date upon giving reasonable notice to the Customer.
- 5.7 The Supplier shall give the Customer notice when the Goods are ready for delivery. If the Customer refuses or fails to collect or take delivery of the Goods or any part of them within seven (7) Business Days from the Delivery Date and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on that date, the Supplier shall be entitled

- 5.7.1 to arrange for the storage of the Goods and risk in the Goods shall pass to the Customer from the Delivery date, delivery shall be deemed to have taken place and the Customer shall pay to the Supplier all costs and expenses including storage and insurance charges arising from such failure, or
- 5.7.2 sell the Goods at the best price readily obtainable and charge the Customer for any shortfall below the price obtained under the Contract
- 5.8 If the Supplier fails to deliver the Goods or any of them on the Delivery Date other than for reasons outside the Supplier's reasonable control or the Customer's or its carrier's fault:
- 5.8.1 if the Supplier delivers the Goods and/or provides the Services at any time thereafter the Supplier shall have no liability in respect of such late delivery; or
- 5.8.2 if the Customer gives written notice to the Supplier within fifteen (15) Business Days after the Delivery Date and the Supplier fails to deliver the Goods within fifteen (15) Business Days after receiving such notice, the Customer may cancel the order. The Supplier will have no liability to the excess (if any) of the cost to the Customer (in the cheapest available market) of similar goods or services to those not delivered or provided over the price of the Goods not delivered.
- 5.9 The Supplier may make and the Customer shall accept partial deliveries of Goods ordered. Failure by the Supplier to make any one or more partial deliveries or any claim by the Customer in respect of any one or more partial deliveries shall not entitle the Customer to treat the Contract as a whole repudiated. All deliveries made outside of the core working hours or normal Business Days may be subject to an additional charge.
- 5.10 Risk of damage to or loss of the Goods shall pass to the Customer:
- 5.10.1 in the case of Goods to be delivered to the Supplier's premises, at the time when the Supplier notifies the Customer that the Goods are available for collection;
- 5.10.2 in the case of Goods to be delivered otherwise than to the Supplier's premises, the time of delivery or, if the Customer wrongfully fails to take delivery of the Goods, the time when the Supplier has tendered delivery of the Goods; or
- 5.10.3 in the case of Goods being installed by the Supplier, at the time that the Supplier notifies the Customer that the installation is complete.
- 5.11 Notwithstanding delivery and the passing of risk in the Goods, or any other provision of these MTC, legal and beneficial title to the Goods shall not pass to the Customer until the Supplier has received in cash or cleared funds payment in full of the price of the Goods.
- 5.12 Until payment has been made to the Supplier in accordance with these Conditions and title in the Goods has passed to the Customer, the Customer shall be in possession of the Goods as bailee for the Supplier and the Customer shall store the Goods separately and in an appropriate environment, shall ensure that they are identifiable as being supplied by the Supplier and shall insure the Goods against all reasonable risks. Notwithstanding this, if the Goods in which the Supplier retains title are incorporated into or affixed to products belonging to the Customer or anyone else, the Supplier retains title to the Goods until full payment is made in accordance with Clause 5.11.
- 5.13 The Customer shall not be entitled to pledge or in any way charge by way of security for any indebtedness any of the Goods which remain the property of the Supplier, but if the Customer does so all money owing by the Customer to the Supplier shall (without prejudice to any other right or remedy of the Supplier) forthwith become due and payable.
- 5.14 The Supplier reserves the right to repossess any Goods in which the Supplier retains title without notice. The Customer irrevocably authorises the Supplier, or any agent acting under authority of the Supplier, to enter any site where such Goods are stored during normal business hours for the purpose of repossessing the Goods in which the Supplier retains title and, in the event that they have been incorporated or affixed to other products, to dismantle them or detach them from those products and repossess them. Furthermore, the Customer will afford all reasonable assistance to identify and dismantle such Goods and in the event that Goods are longer present on site, the Customer will inform the Supplier or its agent where they are now residing and provide assistance to find and repossess the same.
- 5.15 The Customer's right to possession of the Goods in which the Supplier maintains legal and beneficial title shall terminate if:
- 5.15.1 the Customer commits or permits any material breach of his obligations under these MTC or the Contract;
- 5.15.2 the Customer enters into a voluntary arrangement under Parts I or VIII of the Insolvency Act 1986, the Insolvent Partnerships Order 1994 (as amended), or any other scheme or arrangement is made with his creditors;
- 5.15.3 the Customer is or becomes the subject of a bankruptcy order or takes advantage of any other statutory provision for the relief of insolvent debtors;
- 5.15.4 the Customer convenes any meeting of its creditors, enters into voluntary or compulsory liquidation, has a receiver, manager, administrator or administrative receiver appointed in respect of its assets or undertaking or any part thereof, any documents are filed with the court for the appointment of an administrator in respect of the Customer, notice of intention to appoint an administrator is given by the Customer or any of its directors or by a qualifying floating charge-holder (as defined in paragraph 14 of Schedule B1 of the Insolvency Act 1986), a resolution is passed or petition presented to any court for the winding up of the Customer or for the granting of an administration order in respect of the Customer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Customer.
- 5.16 If on delivery any of the Goods are defective in any material respect and either the Customer lawfully refuses delivery of the defective Goods or, if they are signed for on delivery as "condition and contents unknown" the Customer gives written notice of such defect to the Supplier within three (3) Business Days of such delivery, the Supplier shall at its option:
- 5.16.1 where the Goods are covered by a manufacturer's warranty, the Supplier will use all reasonable endeavours to liaise with the manufacturer of the Goods on the Customer's behalf to arrange repair or replacement of the Goods, subject to the following:
- 5.16.1.1 the Goods must be unmodified, have been used properly under normal working conditions and been properly stored, installed and maintained
- 5.16.1.2 the Goods must be returned to the Supplier's premises or to the manufacturer of the Goods or to the Supplier's supplier (as the case may be) in its original packaging including all disks, manuals, cables and any other included items.
- 5.16.1.3 The Customer agrees to comply with all requirements of any 3<sup>rd</sup> party suppliers, Goods manufacturers or carriers for the Goods deemed deficient, damaged or faulty.
- 5.16.2 replace the defective Goods within twenty (20) Business Days of receiving the Customer's notice; or
- 5.16.3 refund to the Customer the price for those Goods (or parts thereof, as appropriate) which are defective; but the Supplier shall have no further liability to the Customer in respect thereof and the Customer may not reject the Goods if delivery is not refused or notice given by the Customer as set out above. Where the Customer places an order for more than 1 item, any deficiency, damage to or fault with any one item shall not entitle the Customer to terminate the Contract as a whole.
- 5.17 The Customer will notify the Supplier of any shortage of supply within three (3) Business Days. If the Customer fails to comply with this clause the Supplier shall not be liable to the Client in respect of any shortage discrepancy or in respect of any consequential losses or expenses arising therefrom.
- 5.17.1 Subject to notification as per clause 5.17, the Supplier will make immediate arrangements to make up any shortage of supply. Any shortage of supply shall not entitle the Customer to terminate the Contract as a whole.
- 5.18 No Goods may be returned to the Supplier without the prior agreement in writing of the Supplier. Subject thereto any Goods returned which the Supplier is satisfied were supplied subject to defects of quality or condition which would not be apparent on inspection shall be dealt with in accordance of sub-Clause 5.16.
- 5.19 The Supplier shall be under no liability in respect of any defect arising from fair wear and tear, or any willful damage, negligence, submission to normal conditions, failure to follow the Supplier's instructions (whether given orally or in writing), misuse or alteration of the Goods without the Supplier's prior approval, or any other act or omission on the part of the Customer, its employees or agents or any third party.
- 5.20 Goods, other than defective Goods returned under sub-Clause 5.16, returned by the Customer and accepted by the Supplier may be credited to the Customer at the Supplier's sole discretion and without any obligation on the part of the Supplier.
- 5.21 Subject as expressly provided in these MTC, and except where the Goods are sold under a consumer sale, all warranties, conditions or other terms implied by statute or common law are excluded to the fullest extent permitted by law.
- 5.22 The Customer shall be responsible for ensuring that, except to the extent that instructions as to the use or sale of the Goods are contained in the packaging or labelling of the Goods, any use or sale of the Goods by the Customer is in compliance with all applicable statutory requirements and that handling and sale of the Goods by the Customer is carried out in accordance with directions given by the Supplier or any competent governmental or regulatory authority and the Customer will indemnify the Supplier against any liability loss or damage which the Supplier might suffer as a result of the Customer's failure to comply with this condition.
- 5.23
- 5.23.1 All software, including related documentation, is supplied under license of the applicable proprietary owner. Title or ownership of software does not transfer to the Customer under any circumstances;
- 5.23.2 It is the sole responsibility of the Customer to comply with any terms and conditions of license attached by the proprietary owner to the associated software and delivered by the Supplier and the Customer accepts that failure to comply with such terms and conditions could result in the Customer:
- 5.23.2.1 being refused a software license;
- 5.23.2.2 having the license and rights of use revoked by the proprietary owner and be subject to further legal action by the same;
- 5.23.3 All software is supplied "as is" and the sole obligation of the Supplier in connection with the software is to obtain and supply a corrected version from the manufacturer concerned in the event of such software failing to conform to its product description or proving in any other way to be defective provided always that the Customer notifies the Supplier as per sub-Clause 5.16;
- 5.23.4 The Supplier is under no obligation to raise a credit note, in accordance to the conditions of sub-Clause 5.16, for an opened package unless it is deficient, damaged or faulty whereupon sub-Clause 5.16 will apply. By breaking the seal, the Customer accepts the license terms between itself and the proprietary owner.
- 5.24 No Contract or order may be cancelled without written consent from the Supplier. In the event that cancellation is agreed for whatever reason, the Customer shall indemnify the Supplier against all costs, claims, loss and expenses occasioned thereby including and consequential loss and loss of profits.

## 6. FEES

- 6.1 In consideration of the Services, the Customer agrees to pay the Fees in accordance with the payment terms in clause 7.
- 6.2 All Fees are exclusive of any value added or other tax or other taxes on profit, for which that Party shall be additionally liable.
- 6.3 The Fees may be varied by the Supplier as set out in each Service Schedule.
- 6.4 If any third-party services or licensing provided to the Customer are subject to a cost variation to the Supplier, the Supplier will vary the Fees for these third-party services or licensing accordingly, on not less than 30 days' prior written notice to the Customer.
- 6.5 The Supplier shall be entitled to recover from the Client any reasonable incidental expenses for materials used and for third party goods and services supplied in connection with the provision of the Services, provided the Customer is notified in advance.
- 6.6 The Customer shall pay the Supplier for any additional services provided by the Supplier that are not specified in the Service Specification in accordance with the Supplier's Rate Card in effect at the time of the performance or such other rate as may be agreed. Any such charge for additional services shall be invoiced separately from any Fees due under the SOF.
- 6.7 Any payment received by the Supplier (whether in part or full) shall in respect of the Goods be deemed to have constituted an offer to the Supplier to purchase the Goods for the full amount.

## 7. PAYMENT TERMS

- 7.1 All payments required to be made by either Party shall be made in full within the Invoice Periods set out on the SOF, or, if the SOF does not specify, within Fourteen (14) days of the date of the relevant invoice, without any set-off, withholding, counterclaim, or deduction whatsoever unless otherwise agreed in writing with the Supplier.
- 7.2 The time of payment shall be of the essence of these MTC. If the Customer fails to make any payment on the due date in respect of any sum due under these MTC then the Supplier shall have the right:
- 7.2.1 to charge the Customer interest on any sum outstanding at the rate of 4% above the base rate of HSBC Bank PLC from the due date for payment until the date on which the payment is received; and
- 7.2.2 to suspend all Services under the Contract until payment is received in full in respect of all outstanding invoices, together with its reasonable costs of collection; and
- 7.2.3 to suspend any further deliveries or provision of Goods to the Customer; and
- 7.2.4 to rely on its rights under the Late Payment of Commercial Debts (Interest) Act 1998 and subsequent Regulations; and
- 7.2.5 to recover any costs, fees, and/ or expenses incurred by the Supplier in recovering funds from, or otherwise enforcing any of its rights against, the Customer, whether within or outside the United Kingdom and the Customer agrees to fully indemnify the Supplier in respect of any such costs, fees, interest charges or expenses.
- 7.3 If any cheque or direct debit presented in payment of an invoice by the Customer is returned unpaid by the Client's bank, or if any agreed standing order or direct debit arrangement fails to operate, then the Customer shall, in addition to all other sums payable, pay to the Supplier the sum of £45 for each such event or such greater sum as shall represent the cost incurred by the Supplier by reason of such dishonour or failure as aforesaid.
- 7.4 The Supplier reserves the right at any time to amend its payment terms or billing practices by giving the Customer not less than 30 days' prior written notice.

## 8. VARIATION AND AMENDMENTS

- 8.1 The Supplier reserves the right to modify the MTC at any time on giving the Customer thirty (30) days prior written notice.
- 8.2 If the Customer wishes to vary any details of the Services Specification it must notify the Supplier in writing as soon as is reasonably possible.
- 8.3 The Supplier shall use all reasonable endeavours to make any required changes and any additional costs thereby incurred shall be separately invoiced to the Customer.
- 8.4 The Supplier shall, withing a reasonable time, provide a written estimate to the Customer of:
- 8.4.1 the likely time required to implement the change;
- 8.4.2 any variations to the Fees arising from the change; and
- 8.4.3 any other impact of the change on the terms of the Contract.
- 8.5 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until both parties have agreed in writing the necessary variations to its charges and any other relevant terms of the Contract to take account of the change.

## 9. TERMINATION

- 9.1 Without prejudice to any other rights or remedies to which the parties may be entitled, either Party may terminate the Contract without liability to the other if:
- 9.1.1 the other Party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that Party being notified in writing of the breach; or
- 9.1.2 an order is made or a resolution is passed for the winding up of the other Party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other Party; or
- 9.1.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other Party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other Party, or notice of intention to appoint an administrator is given by the other Party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- 9.1.4 a receiver is appointed of any of the other Party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other Party, or if any other person takes possession of or sells the other Party's assets; or
- 9.1.5 the other Party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes/ is adjudicated bankrupt; or
- 9.1.6 the other Party ceases, or threatens to cease, to trade; or
- 9.1.7 the other Party takes or suffers any similar or analogous action to any of the foregoing in any jurisdiction in consequence of debt.
- 9.2 For the purposes of sub-Clause 9.1.1, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 9.3 Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the Parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

## 10. EFFECTS OF TERMINATION

- 10.1 Upon the termination of this Contract for any reason:
- 10.1.1 any sum owing by either Party to the other under any of the provisions of the Contract shall become immediately due and payable. In the event that delivery of Goods has yet to be made then, in addition to and without prejudice to the Supplier's rights at common law, equity and statute, the Supplier shall be entitled at its option to cancel the Contract or to cancel or suspend delivery;
- 10.1.2 all clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Contract shall remain in full force and effect;
- 10.1.3 termination shall not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Contract which existed at or before the date of termination;
- 10.1.4 subject as provided in this Clause 10 and except in respect of any accrued rights neither Party shall be under any further obligation to the other; and
- 10.1.5 each Party shall (except to the extent referred to in Clause 12) immediately cease to use, either directly or indirectly, any Confidential Information, and shall immediately return to the other Party any documents in its possession or control which contain or record any Confidential Information.
- 10.2 Each SOF (together with the MTC and any applicable Service Schedule) shall constitute a distinct Contract between the Supplier and the Customer, and the termination of any one SOF shall not affect any other SOF.

## 11. LIMITATION OF LIABILITY

- 11.1 The following provisions set out the entire financial liability of the Supplier (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- 11.1.1 any breach of the Contract howsoever arising;
- 11.1.2 any use made by the Customer of the Services or any part of them; and
- 11.1.3 Any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with the Contract.
- 11.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by Law, excluded from the Contract.
- 11.3 The Service Schedule states the Customer's full and exclusive right and remedy, and the supplier's only obligation and liability, in respect of the performance and availability of the services, or their non-performance and non-availability.
- 11.4 Nothing in these MTC's excludes the liability of the Supplier:
- 11.4.1 for death or personal injury caused by the Supplier's negligence; or
- 11.4.2 for fraud or fraudulent misrepresentation.
- 11.5 Subject to clause 11.2, 11.3 and 11.4:
- 11.5.1 The supplier shall not in any circumstances be liable, whether in tort (including without limitation for breach of statutory duty howsoever arising), contract, misrepresentation or otherwise for:

- 11.5.1.1 loss of profits; or
  - 11.5.1.2 loss of business; or
  - 11.5.1.3 depletion of goodwill or similar losses; or
  - 11.5.1.4 loss of anticipated savings; or
  - 11.5.1.5 loss of goods; or
  - 11.5.1.6 loss of contract; or
  - 11.5.1.7 loss of use; or
  - 11.5.1.8 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- 11.5.2 The Supplier's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the agreement shall be limited to the lower of:
- 11.5.2.1 an amount equal to six (6) times the monthly fees payable for the services as set out on the sof ; or
  - 11.5.2.2 an amount equal to the total value of goods as set out on the sof;
  - 11.5.2.3 except in respect of the liability for death or personal injury resulting from the negligence of the Supplier
- 11.5.3 where the Supplier provides a number of services to the Customer under a number of SOFs, the monthly fees payable in 11.5.2.1 shall be limited solely to those for the relevant SOF.
- 11.6 No action regardless of form arising out of the transactions in relation to the MTC may be brought by either Party more than two (2) years after the cause of action has accrued, except in respect of the liability of the Supplier for death or personal injury resulting from the negligence of the Supplier, or in respect of a claim for non-payment of monies due in relation to a Contract.

## 12. CONFIDENTIALITY

- 12.1 During the term of the Contract and after termination or expiration of the Contract for any reason for a period of 5 years starting on the last date of the provision of the Services to the Customer by the Supplier, the following obligations shall apply to the Party disclosing Confidential Information ("the Disclosing Party") to the other Party ("the Receiving Party").
- 12.2 Subject to sub-Clause 12.3, the Receiving Party:
- 12.2.1 may not use any Confidential Information for any purpose other than the performance of its obligations under these MTC;
  - 12.2.2 may not disclose any Confidential Information to any person except with the prior written consent of the Disclosing Party; and
  - 12.2.3 shall make every effort to prevent the use or disclosure of the Confidential Information.
- 12.3 The obligations of confidence referred to in the provisions of this Clause shall not apply to any Confidential Information that:
- 12.3.1 is in the possession of and is at the free disposal of the Receiving Party or is published or is otherwise in the public domain before its receipt by the Receiving Party;
  - 12.3.2 is or becomes publicly available on a non-confidential basis through no fault of the Receiving Party;
  - 12.3.3 is required to be disclosed by any applicable law or regulation;
  - 12.3.4 is received in good faith by the Receiving Party from a third party who, on reasonable enquiry by the Receiving Party claims to have no obligations of confidence to the other Party to these MTC in respect of it and who imposes no obligations of confidence upon the Receiving Party.
- 12.4 Without prejudice to any other rights or remedies the Disclosing Party may have, the Receiving Party acknowledges and agrees that in the event of breach of this clause the Disclosing Party shall, without proof of special damage, be entitled to an injunction or other equitable remedy for any threatened or actual breach of the provisions of this clause in addition to any damages or other remedies to which it may be entitled.
- 12.5 The obligations of the Parties under the provisions of this clause shall survive the expiry or the termination of the Contract for whatever reason.

## 13. RELATIONSHIP OF THE PARTIES

- 13.1 Nothing in this Contract shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Contract.
- 13.2 Nothing in this Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the Parties, constitute any Party the agent of another Party, nor authorise any party to make or enter into any commitments for or on behalf of any other Party.

## 14. SUB-CONTRACTING AND ASSIGNMENT

- 14.1 The Supplier shall be entitled to perform any of the obligations undertaken by it through any other member of its group or through suitably qualified and skilled sub-contractors. In the event of any sub-contracting by the Supplier, the obligations of the sub-contractor under the Contract shall remain the obligations of the Supplier and any act or omission of such sub-contractor or other member shall, for the purposes of this Contract, be deemed to be an act or omission of the Supplier.
- 14.2 The Customer shall not assign to a third party any or all of its rights or obligations under these MTC without the prior written consent of the Supplier.

## 15. ANTI-BRIBERY

- 15.1 The Supplier shall:
- 15.1.1 comply with all applicable laws, regulations and sanctions relating to anti-bribery and anti-corruption, including the Bribery Act 2010 (Relevant Requirements); and
  - 15.1.2 promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of the Contract.

## 16. PROPRIETARY RIGHTS

- 16.1 Nothing in the Contract affects either party's rights in pre-existing Intellectual Property Rights (including pre-existing Intellectual Property Rights of either party contained in or relating to Confidential Information) (Pre-Existing IPR).
- 16.2 The Customer shall own and retain all rights, title and interest in and to the Customer Data. The Supplier shall have no rights to access, use or modify the Customer Data unless it has the prior written consent of the Customer or unless the nature of the Services implicitly requires such access, use or modification rights.
- 16.3 The Customer hereby grants to the Supplier a perpetual (during the term of the Contract), revocable, non-transferrable, non-exclusive, royalty-free, limited licence to use, copy, modify, improve, enhance and make derivative works of the Customer's Intellectual Property Rights and the Work Product solely to the extent necessary to comply with its obligations under the Contract.
- 16.4 The Supplier will not disclose to the Customer or use in its work any trade secrets or confidential information of a third party which the Supplier is not lawfully entitled to disclose or use in such manner. The Supplier will not use any equipment, supplies, facilities, computer code, work product, inventions or materials of any other third party (Third-Party Materials) in any Work Product or in the Supplier's performance under the Contract unless:
- 16.4.1 the Supplier has the full right and authority to do so without violating any rights of any third party;
  - 16.4.2 the Supplier has obtained all necessary rights to enable it to perform its obligations under the Contract and grant the rights granted herein and to permit the Customer to utilise the Third Party Materials as contemplated under the Contract at no additional cost or expense to the Customer;
  - 16.4.3 the Customer's use of such Third-Party Materials will not restrict or impair in any manner its use of the Work Products or subject the Customer to any obligation or liability; and
  - 16.4.4 such Third-Party Materials are specifically identified to the Customer in writing in advance of any use and the Customer has agreed in writing to such use.

## 17. DOMAIN NAMES

- 17.1 The following shall apply if the customer procures a domain name directly from a domain name registration authority or other 3<sup>rd</sup> party, the Supplier, at its discretion, may choose to act as an agent for the Customer in dealing with the relevant domain name registration authority. The contract for the domain name shall be between the Customer and the relevant domain name registration authority and the Customer agrees that they shall be solely responsible for renewals, legal, technical, administrative, billing or other requirements imposed by the relevant domain name registration authority (and relevant costs and expenses thereof).
- 17.2 The following shall apply if the Customer procures a domain name directly from a domain name registration authority or other 3<sup>rd</sup> party. The Supplier gives no warranty that the domain name requested will not infringe the rights of any third party and all such enquiries shall be the responsibility of the Customer, and the domain name shall form the Customer's intellectual Property for the purposes of the Contract.
- 17.3 If the Supplier licenses to the Customer an IP address as part of the Services, such IP address shall (to the extent permitted by law) revert to the Supplier after termination of the Contract for any reason whatsoever, whereupon the Customer shall cease using the address. At any time after such termination, the Supplier may re-assign the address to another user.

## 18. NON-SOLICITATION

- 18.1 Neither Party shall, for the Term of this Contract and for a period of twelve (12) months after its termination or expiry, solicit or entice away from the other Party or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the other Party.
- 18.2 Neither Party shall, for the Term of this Contract and for a period of twelve (12) months after its termination or expiry, solicit or entice away from the other Party any customer or customer where any such solicitation or enticement would cause damage to the business of that Party.
- 18.3 Any consent given by a Party under clause 18.1 shall be given in writing and shall be subject to the other Party paying the consenting Party a sum equivalent to at least 50% of the then current annual remuneration of the person who is or was employed or otherwise engaged by the other Party. The Parties agree that this represents a genuine pre-estimate of the consenting Party's loss.

## 19. FORCE MAJEURE

- 19.1 The Supplier shall have no liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control except to the extent that the Supplier could reasonably have avoided such circumstances by exercising the level of diligence that could reasonably have been expected of it (having exercised Good Industry Practice), including strikes, lock-outs or other industrial disputes (excluding any industrial disputes involving the workforce of the Supplier), act of God, war, riot, civil commotion, compliance with any law or regulation, fire, flood or storm (each a Force Majeure Event).

## 20. WAIVER

- 20.1 No waiver by the Supplier of any breach of the Contract by the Customer shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of the Contract shall be effective only if given in writing and signed by the waiving party and then only in the instance and for the purpose for which any waiver is given.
- 20.2 No failure or delay on the part of any Party in exercising any right, power or privilege under the Contract shall operate as a waiver of such, nor shall any single or partial exercise of any such right, power or privilege.

## 21. SEVERANCE

- 21.1 If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of the Contract and the remainder of the provision in question shall not be affected thereby.

## 22. NOTICES

- 22.1 All notices under these MTC shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 22.2 Notices shall be deemed to have been duly given:
- 22.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
  - 22.2.2 when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
  - 22.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
  - 22.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid. In each case addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.
- 22.3 Service of any document for the purposes of any legal proceedings concerning or arising out of the Contract shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing from time to time.

## 23. LAW AND JURISDICTION

- 23.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including without limitation non-contractual disputes or claims) are governed by and construed in accordance with the law of England.
- 23.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including without limitation non-contractual disputes or claims).

## 24. DISPUTE RESOLUTION

- 24.1 The Parties shall attempt to resolve any dispute arising out of or relating to this Contract through negotiations between their appointed representatives who have the authority to settle such disputes.
- 24.2 If negotiations under sub-Clause 24.1 do not resolve the matter within 14 days of receipt of a written invitation to negotiate, the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution ("ADR") procedure.
- 24.3 Nothing in this Clause 24 shall prohibit either Party or its affiliates from applying to a court for interim injunctive relief.

## SERVICE SCHEDULE - SECTION A – APPLICATION AND DEFINITIONS

### 1. APPLICATION

1.1 This Service Schedule describes the provision of Core Contract Services by the Supplier to the Customer.

1.2 This Services Schedule is composed of:

1.2.1 Section A: Application and Definitions

1.2.2 Section B: Core Contract Services

### 2. DEFINITIONS AND INTERPRETATION

2.1 The definitions contained in the MTC (as defined hereunder) shall equally apply to this Services Schedule.

2.2 In this Services Schedule, unless the context otherwise requires, the following expressions have the following meanings:

<b>"Change Request"</b>	a request made by the Customer to the Supplier for a new set-up, change, configuration or enhancement to the Managed Customer Equipment, rather than the restoration to a previous working state;
<b>"Business Hours"</b>	09:00 to 17:30 GMT/BST on all Business Days;
<b>"Exit Plan"</b>	has the meaning given in clause 17, and may be updated and amended by the Parties from time to time in writing;
<b>"Fair Usage Policy"</b>	the policy at clause 18 identifying the anticipated Usage Level of the Support Services;
<b>"Incident"</b>	an unplanned interruption to the Customer's IT service, a reduction in the quality of a Customer's IT service or the failure of Managed Customer Equipment;
<b>"Managed Customer Equipment"</b>	the Customer Equipment that is covered by the Support Services, as set out on the SOF;
<b>"Master Terms and Conditions" (MTC)</b>	the master terms and conditions of business of the Supplier;
<b>"Onboarding Process"</b>	the information gathering and implementation process carried out prior to the provision of the Support Services;
<b>"On-site Escalation"</b>	the provision of Support Services by the Supplier at a Customer Site, and <b>"On-site"</b> shall be construed accordingly;
<b>"On-site Resource"</b>	a member of the Supplier's staff that provides Support Services On-site.
<b>"Price Variation Event"</b>	any of the events listed in clause 13.4;
<b>"Project Services"</b>	any services or projects provided to the Customer on an ad hoc basis;
<b>"Remote Support"</b>	Either: (i) the provision of Support Services by remote connection to the Customer Sites or Managed Client Equipment via the Internet or other network connections, allowing the Supplier to work directly on the Managed Customer Equipment; or (ii) the provision of Support Services over the telephone to the Customer; and <b>"Remotely"</b> shall be construed accordingly;
<b>"Response Time"</b>	the time between a Ticket being raised by the Service Desk and the commencement of action by the Supplier on the Ticket;
<b>"RPI"</b>	the Retail Price Index or any official index replacing it;
<b>"Server Monitoring Service"</b>	the service provided by the Supplier by which the Customer's server(s) are remotely monitored by a software agent;
<b>"Service Desk"</b>	the Supplier's technical resource desk providing Support Services;
<b>"Service Level Targets"</b>	the Supplier's target performance level for the provision of the Support Services;
<b>"Setup Fees"</b>	the Fees payable for the implementation of the Support Services as part of the Onboarding Process, as set out on the SOF;
<b>"Support Fees"</b>	the Fees payable for the Support Services as set out on the SOF;
<b>"Support Request"</b>	a request made by the Customer to the Supplier for resolution of an Incident;
<b>"Support Services"</b>	the "core contract" services to be provided by the Supplier to the Customer;
<b>"Ticket"</b>	a unique identifier which is allocated by the Supplier to any Support Requests;
<b>"Ticket Priority"</b>	the priority level of a Ticket;
<b>"Time To Fix (TTF)"</b>	the time between the commencement of action by the Supplier on a Ticket and the restoration of functionality;
<b>"Time To Respond (TTR)"</b>	the time between a Ticket being raised by the Service Desk and the commencement of action by the Supplier on the Ticket;
<b>"Transition Services"</b>	the services to be provided by the Supplier to implement the Exit Plan;
<b>"Usage Level"</b>	the minutes recorded by the Supplier for the provision of Support Services to the Customer;
<b>"User"</b>	a member of staff of the Customer authorised to receive the Support Services, the total number of which is set out on the SOF;

2.3 Unless the context otherwise requires, each reference in this Services Schedule to:

2.3.1 "writing", and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;

## SERVICE SCHEDULE - SECTION B – CORE CONTRACT SERVICES

### 2. SUPPLIER OBLIGATIONS AND WARRANTIES

- 3.1 In addition to its obligations and warranties under the MTC, the Supplier confirms that it shall:
- 3.1.1 provide the Support Services for the Managed Customer Equipment;
  - 3.1.2 provide the Support Services for the benefit of the number of Users; and
  - 3.1.3 seek to respond to Support Requests and Change Requests in accordance with the SLA targets provided in clause 8 and 9.
- 3.2 The Supplier shall ensure that appropriate safety and security systems and procedures are maintained and enforced on its own systems, in accordance with Good Industry Practice.

### 4. CUSTOMER OBLIGATIONS AND WARRANTIES

- 4.1 In addition to its obligations and warranties under the MTC, the Customer confirms that it shall:
- 4.1.1 co-operate with the Supplier in the diagnosis of any defect or malfunction in the Managed Customer Equipment;
  - 4.1.2 provide its own equipment, software and communications lines, including any public lines, required to allow the Supplier to Remotely access the Managed Customer Equipment, unless otherwise stated on the SOF;
  - 4.1.3 notify the Supplier of any changes to the Managed Customer Equipment;
  - 4.1.4 provide a safe working environment for any of the Supplier's staff, agents, subcontractors consultants or employees who are required to operate at the Customer Sites and will afford to them at least the same access to facilities as it provides its own staff on the Customer Sites;
  - 4.1.5 inform the Supplier of all health and safety rules and regulations and any other reasonable security requirements that apply at the Customer Sites;
  - 4.1.6 ensure that it has valid licensing for all supported software and also for hardware where licensing is required. The Supplier will not offer any Support Services on unlicensed software or hardware.
  - 4.1.7 seek to provide the Supplier with notification of all Incidents as soon as possible, to ensure that the impact of the Incident is minimised; and
  - 4.1.8 provide such output and other data, documents, information, assistance and (subject to compliance with all Customer's security and encryption requirements notified to the Supplier in writing) remote access to the Customer's systems, as are reasonably necessary to assist the Supplier to reproduce operating conditions similar to those present when the Customer detected the relevant fault and to respond to the relevant Ticket.
- 4.2 The Supplier uses a variety of remote support techniques ranging from Customer-instigated screen sharing to products such as ScreenConnect. The specific arrangements for the Customer Sites will be agreed with the Customer. The Customer's assistance may be required to enable a remote support session.

### 5. ONBOARDING PROCESS

- 5.1 As part of the Onboarding Process, the Supplier shall conduct a due diligence exercise on the Customer Equipment.
- 5.2 The Supplier and the Customer shall co-operate in implementing the Support Services following the due diligence exercise. The Supplier will notify the Customer of any Setup Fees payable for the implementation of the Support Services.
- 5.3 In the event that the Supplier identifies any malfunctioning or obsolete Client Equipment, the Supplier may notify these to the Customer and provide recommendations for the resolution of any issues or replacement of any Customer Equipment, together with a Fees quotation. The Customer is under no obligation to commission the Supplier to resolve any issues discovered during the Onboarding Process.
- 5.4 If the Customer does not wish to adopt recommendations for improving aspects of the Customer Equipment, or resolve any deficiencies highlighted, the Supplier retains the right to exclude the provision of Support Services to the Customer Equipment in question.
- 5.5 If the Supplier identifies any Intellectual Property Rights (aside from Third-Party Software and Customer Software) that are needed by the Supplier to provide the Services then the Customer will, grant the Supplier a royalty-free licence to use such Intellectual Property Rights for the purpose of providing the Services for the duration of this agreement.

### 6. SUPPORT REQUESTS AND CHANGE REQUESTS

- 6.1 The Support Services seek to respond to Customer's Support Requests and Change Requests.
- 6.2 Support Requests and Change Requests may be made by any User by the following methods:
- 6.2.1 By Email to the Service Desk;
  - 6.2.2 By Telephone to the Service Desk;
  - 6.2.3 By the Customer Support Portal;

### 7. TICKETS AND SUPPORT DELIVERY

- 7.1 Upon receipt of a Support Request or Change Request from the Customer or any automated monitoring system used on the Managed Customer Equipment, the Service Desk will raise a Ticket.
- 7.2 Save in the case of Incident notifications from automated monitoring systems, the Customer will receive notification of the Ticket by email, or, in the event that the Customer's email or data connectivity systems are non-functional, by telephone.
- 7.3 The Supplier may consolidate Tickets that have the same root cause into one Ticket.
- 7.4 The Supplier will determine the Ticket Priority for each Ticket.
- 7.5 The Supplier will maintain a record of time spent on each Ticket, together with actions taken. The minutes spent on each Ticket, both Remotely and On-site, will be counted towards the total Ticket time and recorded for reference and quality of service analysis. These minutes will include time spent waiting for software and hardware to complete tasks.
- 7.6 The Supplier will seek to complete the Ticket by identifying the underlying cause of the Incident and restoring functionality, in the case of a Support Request, or completing the required changes to the Managed Customer Equipment, in the case of a Change Request.
- 7.7 Upon the restoration of functionality or completion of a Change Request, the Supplier will close the Ticket and notify the Customer.

### 8. SERVICE LEVELS TARGET: BUSINESS HOURS

**09:00 TO 17:30 BUSINESS DAYS ONLY**

- 8.1 During Core Hours, the Supplier will seek to resolve Tickets by Remote Support.
- 8.2 Whilst the Supplier will make all reasonable attempts to resolve Tickets remotely, certain Tickets may require On-site Escalation. In such cases the Supplier may decide at its reasonable discretion that an On-site Resource is required at a Customer Site, and the Customer shall be informed accordingly.
- 8.3 All On-site Escalation will be carried out during Business Hours.
- 8.4 The Supplier will seek to provide the Support Services during Business Hours in accordance with the Service Level Targets set out in the Table below on a reasonable endeavors basis:

PRIORITY LEVEL	TICKET PRIORITY	BUSINESS IMPACT	EXAMPLE/S	SLA: TIME TO RESPOND (TTR)	SLA: TIME TO FIX REMOTELY (TTF)
1	Critical	A serious problem needing immediate attention affecting a large number of users.	<ul style="list-style-type: none"> <li>• Preventing multiple users from working</li> <li>• Loss of site internet connectivity.</li> <li>• Business critical system failure.</li> </ul>	1 Hour	4 Hours
2	Standard	A problem affecting a small number of users impacting on productivity.	<ul style="list-style-type: none"> <li>• Preventing a user from working with no workaround</li> <li>• Desktop Problems</li> <li>• File and Print issues</li> </ul>	3 Hours	Next Business Day
3	Low	A problem affecting one user with minimal impact to productivity or with a workaround in place.	<ul style="list-style-type: none"> <li>• Restricted functionality in an application</li> <li>• Desktop settings</li> <li>• Partial loss of telephony functionality</li> </ul>	Next Business Day	3 Business Days
4	Service Request	Installation; Move; Add; Change or Deletion of a new or existing Service.	<ul style="list-style-type: none"> <li>• Administration access</li> <li>• New Users</li> <li>• Device Configuration</li> <li>• Installation of Software</li> </ul>	1 Business Day	5 Business Days

- 8.5 Where the Supplier fails to meet the TTR Service Level Targets for Critical Tickets more than five (5) times in any calendar month, the Customer shall have the right to terminate the Contract on 30 days' notice to the Supplier as the Customer's sole and exclusive remedy.
- 8.6 The Supplier reserves the right to charge the Customer at the then current Rate Card Fees and reasonable travel expenses for any On-Site Escalation.
- 8.6.1 cancelled by the Customer following despatch of the On-site Resource by the Supplier; or
  - 8.6.2 where the Supplier's On-site resource is refused access to the Customer Site(s), at the then current Rate Card Fees and reasonable travel expenses.

### 9. SERVICE LEVELS TARGET: NON-BUSINESS HOURS

**17:30 TO 09:00 FRIDAY – MONDAY, ALSO NON BUSINESS DAYS**

- 9.1 Whilst the Supplier will make all reasonable attempts to resolve Tickets remotely, certain Tickets may require On-site Escalation. In such cases the Supplier may decide at its reasonable discretion that an On-site Resource is required at a Customer Site, and the Customer shall be informed accordingly.
- 9.2 All On-Site Escalation will be carried out during Business Hours.

PRIORITY LEVEL	TICKET PRIORITY	BUSINESS IMPACT	EXAMPLE/S	SLA: TIME TO RESPOND (TTR) COMMENCEMENT OF ACTIVE INVESTIGATION/WORK ON INCIDENT	SLA: ON-SITE ESCALATION TIME FROM NOTIFICATION OF ON-SITE ESCALATION TO TIME ON-SITE RESOURCE ARRIVES AT CLIENT SITE
1	Critical	A serious problem needing immediate attention affecting a large number of end-users	<ul style="list-style-type: none"> <li>• Preventing multiple users from working</li> <li>• Loss of site internet connectivity</li> <li>• Business critical system failure</li> </ul>	Next Business Day	4 Hours
2	Standard	A problem affecting a small number of users impacting on productivity	<ul style="list-style-type: none"> <li>• Preventing a user from working, with no workaround</li> <li>• Desktop problems</li> <li>• File and print issues</li> </ul>	Next Business Day	Next Business Day
3	Low	A problem affecting one user with minimal impact to productivity, or with a workaround is in place	<ul style="list-style-type: none"> <li>• Restricted functionality in an application</li> <li>• Desktop settings</li> <li>• Partial loss of telephony functionality</li> </ul>	Next Business Day	3 Business Days
4	Service Request	Installation; Move; Add; Change or Deletion of a new or existing service	<ul style="list-style-type: none"> <li>• Administration access (e.g. AD accounts; emails)</li> <li>• New Users</li> <li>• Device Configuration</li> <li>• Installation of software</li> </ul>	1 Business Day	5 Business Days

- 9.5 Where the Supplier fails to meet the TTR Service Level Targets for Critical Tickets more than five (5) times in any calendar month, the Customer shall have the right to terminate the Contract on 30 days' notice to the Supplier as the Client's sole and exclusive remedy.

### 10. MANAGED CUSTOMER EQUIPMENT

- 10.1 The Support Services:
- 10.1.1 are provided only for Managed Customer Equipment.
  - 10.1.2 will address any technical issues affecting the Managed Customer Equipment but do not in any way provide a warranty for faulty parts.
- 10.2 The Supplier will manage third-party warranty escalation or equipment ordering in the event that it deems a part of the Managed Customer Equipment requires replacement. In the event that the Customer refuses to replace a faulty or unsupported part the Supplier reserves the right to cease the provision of Support Services to the Managed Customer Equipment in question.
- 10.3 Should the Customer wish to add hardware or software to the Managed Customer Equipment, it should inform the Supplier of the proposed changes.
- 10.4 The Customer confirms its awareness that Managed Customer Equipment, by its nature, may develop faults at any time, and that the Support Services seek to reduce the impact of these faults or imperfections on the Customer, rather than eliminating faults or preventing them from occurring.
- 10.5 Where the Customer stores data on the Managed Customer Equipment, the Customer should ensure that this data is backed up to a physically separate location, preferably multiple locations. This is so that in the event the Supplier deems an erasure of the Managed Customer Equipment is required during the provision of the Support Services, the Customer will not suffer loss of data.

### 11. SERVICE REVIEW AND GOVERNANCE

- 11.1 The Customer and the Supplier shall have regular meetings to monitor and review the performance of the Support Services and to discuss any changes proposed.

### 12. SUPPORT SERVICES EXCLUSIONS

- 12.1 The Support Service does not include the following within the inclusive user fee:
- 12.1.1 the installation of Customer Equipment, Software, or Goods;
  - 12.1.2 the configuration of new Customer Equipment, Software, or Goods;
  - 12.1.3 on site visits
  - 12.1.4 project or consultancy meetings (excluding regular review meetings)
  - 12.1.5 upgrade or support work outside of the supplier's normal business hours;
  - 12.1.6 any hardware or software warranties or any hardware or software replacements;
  - 12.1.7 any third-party services;

- 12.1.8 any Project Services;
- 12.1.9 emergency virus repairs, removals or remediation including services employed towards the recovery of data and infrastructure; and
- 12.1.10 any other services provided by the Supplier.

### 13. SUPPORT FEES

13.1 The Support Fees are calculated on the basis of:

- 13.1.1 the Managed Customer Equipment;
- 13.1.2 the number of Users;
- 13.1.3 the Customer Sites;
- 13.1.4 the anticipated Usage Level being within the Fair Usage Policy; and
- 13.1.5 whether any resources will be required On-site on a scheduled basis.

13.2 DURING THE INITIAL TERM, and unless otherwise stated on the SOF, the Support shall not be varied unless a Price Variation Event occurs, in which case the Support Fees may be varied by the Supplier as follows:

- 13.2.1 The Supplier must give the Customer not less than 30 days' prior written notice of the proposed Support Fees variation;
- 13.2.2 The varied Support Fees shall take effect 30 days following the Supplier's notice to the Customer, unless, not more than 14 days following the date of receipt of the Supplier's notice, the Customer notifies the Supplier that the varied Fees are not accepted.
- 13.2.3 In the event that the Customer provides notice of non-acceptance under clause 13.2.2, either Party shall have the right to terminate the Contract at not less than ninety (90) days following the date of notice of Price Variation under clause 13.2.1.

13.3 FOLLOWING THE EXPIRY OF THE INITIAL TERM, the Supplier may vary the Support Fees at any time by giving the Customer not less than 30 days' prior written notice of the proposed Support Fees variation.

- 13.3.1 The varied Fees shall take effect 30 days following the Supplier's notice to the Customer, unless, not less than 14 days following the date of receipt of the Supplier's notice, the Customer notifies the Supplier that the varied Fees are not accepted.
- 13.3.2 In the event that the Customer provides notice of non-acceptance under clause 13.3.1, either Party shall have the right to terminate the Contract on not less than 30 days' prior written notice.

13.4 Any of the following shall be considered a Price Variation Event:

- 13.4.1 a change to the Customer Sites;
- 13.4.2 a material change to the Managed Customer Equipment;
- 13.4.3 an increase in the number of Users; or
- 13.4.4 the Usage Level of the Support Services, being materially in excess of the Fair Usage Policy.

13.5 The Supplier reserves the right to increase the Support Fees in line with RPI once in any 12-month period. The Supplier will give the Customer written notice of any such increase 30 days before the proposed date of the increase.

### 14. ANNUAL IT STRATEGY & CONSULTANCY

14.1 The IT strategy service provides the Customer with a roadmap aligning proposed IT projects and budgets with market opportunities and the forecast needs of the business.

14.2 IT consultancy and Digital Assurance services such as Helix and Health check are ad-hoc advice provided outside of the annual IT strategy.

14.3 The roadmap is a powerful opportunity to deliver value to the Customer. The Supplier will seek to ensure the validity of the consultative elements of the Roadmap and insofar as any advice therein concerns existing technologies, such advice will only be provided by suitably qualified consultants.

14.4 Any elements of the roadmap that venture opinions on the Customer's business or future movements in technology are provided in context and the Customer must exercise its own judgement on the advice and be responsible for any decisions made on foot of the roadmap.

14.5 The roadmap will include the following sections:

- 14.5.1 Infrastructure Review: This section details the Customer's current IT estate and an assessment based on risk matrices.
- 14.5.2 Recommendations Document: Taking into account the findings following the Infrastructure Review, and working within the given financial constraints, the Parties will agree a costed roadmap as a framework for the Customer's IT requirements.

14.6 All of the data compiled during the formation of the annual IT strategy and Roadmap will be securely stored. Access to this information will be made available to the Customer on request. This data remains the possession of the Customer and the Customer may at any time request deletion of the data and evidence of such deletion.

### 15. SERVER MONITORING

15.1 The Server Monitoring Service monitors the usage and status of key metrics on the Customer's servers, and alerts the Supplier in the event of any alert thresholds being exceeded, seeking to pre-empt major support issues.

15.2 The Server Monitoring Service may require the installation of a software agent on the device being monitored. In order to minimise false positive alerts, effective deployment of the agent requires an initial period of close management by the Supplier, in order to benchmark the specific performance variables of the Customer's server environment.

15.3 The Supplier can provide extensive automated alerts functionality. Such alerts are normally directed to the Service Desk, but if requested by the Customer the Supplier can provide a tailored automated alert solution.

### 16. PROJECT SERVICES/ADDITIONAL RATES

16.1 This clause applies in the event that the Customer is being provided with any Project/ Chargeable Services. Examples of Project/ Chargeable Services include, but are not limited to:

- Server and workstation installs
- Office moves
- Value-add service setups

16.2 If required by the nature of the Services, the Supplier will present a Project Plan to the Customer setting out the provision of the Services, together with any agreed timelines.

16.3 The provision of Services, such as the installation and configuration of new equipment, is chargeable to the Customer at the Supplier's then current Rate Card Fees.

16.4 Rate Card: as per your Network Services Agreement

16.5 Work undertaken without a Core Contract Services Agreement in place will be charged beginning at our base rate starting from £95.00 per hour depending on the Service type and hours of work.

### 17. EXIT ASSISTANCE AND TRANSFER OF ASSETS

17.1 The Supplier shall, on request from the Customer, prepare or update a detailed plan for the orderly transition of the Support Services from the Supplier to the Customer or its nominated replacement supplier (Exit Plan).

17.2 The Customer may, at any time before termination of this agreement, for any reason, request the Supplier to provide the Transition Services or otherwise to offer reasonable assistance in transitioning the Managed Services to a replacement supplier (by providing the Transition Services). The Supplier will, in consideration of a reasonable fee (to be agreed in advance), provide such Transition Services for a maximum period of three months, or until termination of this agreement, whichever is later.

17.3 The Transition Services will only be provided where there are no outstanding Fees due from the Customer to the Supplier.

### 18. FAIR USAGE POLICY

18.1 The Supplier will accurately monitor usage of the Support Services by the Customer. Upon the request of either party, the Parties shall review any usage reports and will seek to agree, acting reasonably and in good faith, any adjustments (if any) to such records and reports to reflect such actual usage of the Support Services by the Customer, where there are found to be any discrepancies in the recording of such usage. The Usage Level will be calculated from the adjusted usage reports.

18.2 If the Usage Level materially exceeds that which may be anticipated under the Contract, taking into account the number of Users, the Customer Sites and the nature of the Customer's business (Fair Usage), the Parties shall, acting reasonably and in good faith, review and identify the reasons for the Usage Level being in excess of the Fair Usage.

18.3 If it is established that the breach of Fair Usage is due to the Customer's normal usage of the Support Services, this will be considered to be a Price Variation Event.