



GENERAL TERMS AND CONDITIONS FOR THE SUPPLY OF PRODUCTS AND/OR SERVICES

1 DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following terms shall have the following meanings:-

"Anti-Bribery Laws"	means any and all statutes, statutory instruments, bye-laws, orders, directives, treaties, decrees and laws that relate to anti-bribery and/or anti-corruption, including the Bribery Act 2010;
"Business Day"	means any and all days from Monday to Friday (inclusive) in any week but excluding English bank holidays or public holidays;
"Carrier"	means the relevant third party public telecommunications operator and/or third party network service provider, including any mobile network operator and/or mobile service provider;
"Change"	means any change to any Service or Product made in accordance with clause 17.3;
"Charges"	means the costs and charges payable by the Customer to the Company for the Services, as calculated and payable in accordance with the Order Form, these Conditions and/or the relevant Specific Conditions;
"Commencement Date"	means the commencement date of the applicable Services as specified in the Order Form and/or in the relevant Specific Conditions;
"Company"	means Daisy Corporate Services Trading Limited a company registered in England and Wales with company registration number 2888250 whose registered office is Lindred House, 20 Lindred Road, Brierfield, Nelson, Lancashire, BB9 5SR;
"Company Personnel"	means the Company's employees, agents, sub-contractors and consultants and any other person(s) authorised by the Company engaged in the Services;
"Company Software"	means any software (whether on premise software or software as a service (SaaS)) licensed or otherwise made available by the Company to the Customer to enable the Customer to use and/or benefit from the Services, as set out in the Order Form, but excluding any Third Party Software;
"Conditions"	means these general terms and conditions for the supply of Products and/or Services;
"Confidential Information"	has the meaning ascribed to it in clause 15.1;
"Contract"	means the agreement between the Customer and the Company for the provision of the Products and/or Services (or any of them) incorporating these Conditions, the Order Form and any other Specific Conditions and/or Promotional Terms incorporated into this Contract in accordance with clause 2.1;
"Contract Year"	means a period of twelve months commencing from either (i) the Effective Date of this Contract; or (ii) any subsequent annual anniversary of the Effective Date;
"Contractor"	means any person who, on or prior to the Effective Date of this Contract (and/or prior to the date of the transfer of such services to the Company), supplied services to the Customer that were the same as or similar to those provided or to be provided by the Company to the Customer under this Contract;
"Customer"	means the person, firm or company specified in the Order Form and any other person appearing to act within that person, firm or company's authority and includes where relevant the Customer's permitted assigns;
"Customer Information"	means as defined in clause 3.2;
"Customer Input Materials"	means all Documents, Customer Information and materials provided by the Customer relating to the Services, including computer programs, data, reports and specifications and any other materials specified as Customer Input Materials in this Contract;



"Customer Obligations"	means the Customer's responsibility to provide the Customer Input Materials in accordance with clause 3 together with any other Customer obligations under these Conditions, the Specific Conditions, Promotional Terms and/or the Order Form;
"Customer Premises"	means a place of business of the Customer at which the Products and/or Services are to be provided as specified in an Order Form;
"Customer Representatives"	means those relevant employees, agents or representatives of the Customer that are authorised by the Customer to deal with the Company in respect of the Products and/or Services and that are reasonably knowledgeable in respect of the Products and/or Services, including but not limited to those authorised to provide relevant Customer Input Materials and/or request additional Services and/or Products;
"Document"	means any document in writing, any drawing, map, plan, diagram, design, picture or other image, tape, disk or other device or record embodying information in any form;
"Effective Date"	means, subject to clause 2.1, the date on which the last party executes the Order Form and this Contract is formed;
"Emergency"	means a state of emergency that demands immediate action resulting from a danger or threat of danger to the United Kingdom from foreign or domestic sources and declared to be in existence by governmental authority;
"Employee"	means any employee, former employee, consultant, former consultant, contractor, former contractor, agent or former agent of the Customer or any Contractor or Subcontractor;
"Employment Regulations"	means any laws in any country in the world implementing the provisions of EC Directives No. 77/187 dated 14 February 1977, 2001/23 dated 12 March 2001 or equivalent or similar regulations that protect the rights of employees on a transfer of a business or undertaking or any laws providing for the automatic transfer of employees on transfer of the whole or part of an undertaking, business or service provision change, including in the United Kingdom the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced from time to time;
"End User"	means any individual end user of the Services, including but not limited to the employees of the Customer;
"Equipment"	means (if any) the hardware equipment to be supplied (whether sold, licensed and/or loaned) under this Contract as set out in an Order Form;
"Group"	means together a party, its Parent Undertakings, its Subsidiary Undertakings and the Subsidiary Undertakings of any of its Parent Undertakings from time to time;
"Intellectual Property Rights"	means all intellectual and industrial property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition, copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;
"Minimum Term"	means the minimum contract period for the applicable Services as provided for under the relevant Specific Conditions and/or as set out in the Order Form;
"Normal Working Hours"	means 9.00am to 5.30pm on any Business Day;
"OFCOM"	means the Office of Communications and/or any successor body;
"Order Form"	means the order form or other document to which either these Conditions are attached or that is expressed to incorporate or be subject to these Conditions, which sets out (amongst other things) the Customer's details and the Products



	and/or Services to be supplied pursuant to this Contract, together with any Specific Conditions or Promotional Terms (if applicable);
"Parent Undertaking"	has the meaning given to it in section 1162 of the Companies Act 2006;
"Pre-Existing Materials"	means all Documents, Software, information and materials provided by the Company relating to the Services that existed prior to the Commencement Date, including computer programs, any Company portal, data, reports and specifications;
"Price"	means the price payable by the Customer for the Products, as set out in or referred to in the Order Form and payable in accordance with the Order Form and/or the relevant Specific Conditions or Promotional Terms;
"Products"	means any Equipment and/or Software to be supplied under this Contract as set out in an Order Form;
"Promotional Terms"	means any additional terms that apply to the Price and/or Charges and that may be specified in an Order Form and/or notified by the Company in writing to the Customer in relation to the Products and/or Services, at the time the relevant Order Form was submitted;
"Relevant Laws"	means any statute, regulation, bylaw, ordinance or subordinate legislation that is in force for the time being to which a party is subject; the common law as applicable to the parties (or any one of them); any binding court order, judgment or decree applicable to the parties (or any one of them); and any applicable industry code, standard or accreditation terms that are either (i) enforceable by law that is in force for the time being, and/or (ii) stipulated by any regulatory authority to which the Services and/or Products are subject (including but not limited to OFCOM);
"Retail Price Index"	means the Retail Price Index (RPI all items) published by the Office for National Statistics in the United Kingdom or any successor body (or, if such index ceases to be published, any equivalent index);
"RPI Figure"	means the monthly figure provided by the Retail Price Index;
"RPI Review Date"	has the meaning ascribed to it in clause 6.3;
"Services"	means any of the services supplied by the Company under or in connection with this Contract, as specified in an Order Form and/or the relevant Specific Conditions;
"Service Credits"	means (if any) the service credits set out in this Contract and payable in the event of a failure to achieve the associated Service Levels;
"Service Levels"	means (if any) the service levels set out in this Contract;
"Site"	means any site at which the Services and/or Products are to be provided that is not a Customer Premises, as specified in an Order Form;
"Software"	means (if any) Company Software and/or any Third Party Software;
"Specific Conditions"	means any additional terms and conditions, which are to apply to this Contract, as specified in an Order Form in respect of specific Services and/or Products, (but excluding Promotional Terms);
"Subcontractor"	means any subcontractor of a Contractor;
"Subsidiary Undertaking"	has the meaning given to it in section 1162 of the Companies Act 2006;
"Term"	means as defined in clause 4.1;
"Third Party Software"	means any Vendor software (whether on premise software or software as a service (SaaS)) made available by the Company to the Customer to be used by the Customer in connection with the Services;
"Variation"	means any change to these Conditions, the Specific Conditions and/or any other provision of this Contract made in accordance with clause 17.1 or 17.2, which is not a Change; and



"Vendor" means any third party manufacturer of Equipment and/or third party owner and/or licensor of any Third Party Software.

1.2 In this Contract, except where the context otherwise requires or unless otherwise specified:

- 1.2.1 words denoting the singular include the plural and vice-versa;
- 1.2.2 the headings or sub-headings are for convenience only and shall not in any way affect the interpretation of this Contract;
- 1.2.3 a reference to a statute, statutory provision or any subordinate legislation shall unless otherwise stated be construed as including a reference to that statute, provision or subordinate legislation as in force at the date of this Contract and as from time to time modified or consolidated, superseded, re-enacted or replaced (whether with or without modification) after the date of this Contract and a reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
- 1.2.4 words importing the singular include the plural and vice versa, words importing a particular gender include the other gender and the neuter and a reference to a "person" shall include a reference to any natural person, corporation (wherever incorporated), partnership, trust, unincorporated association, any form of governmental or supra governmental body, agency or authority;
- 1.2.5 references to "the parties" shall unless otherwise expressly stated, be construed as references to the Customer and the Company, and the term "party" shall be construed accordingly; and
- 1.2.6 a reference to writing or in writing includes emails.

1.3 Any undertaking by the Customer to do something or not to do something shall be deemed to include an undertaking that the Customer will be responsible for procuring that any End User of the Services and/or Products including (without limitation) any of the Customer's employees, agents or contractors, shall do or not do such thing.

2 CONTRACT FORMATION

2.1 A signed Order Form constitutes the Customer's offer to the Company to purchase the relevant Products and/or Services and/or rent the relevant Equipment. The Company is under no obligation to accept any Order Form and may, in its absolute discretion, reject or amend any proposed Order Form. This Contract shall only come into force and bind both parties once:

- 2.1.1 the Customer's offer is accepted by an authorised representative of the Company signing the Order Form or the Company commencing the performance of the Services and/or provision of the Products;
- 2.1.2 the credit status of the Customer being to the satisfaction of the Company (in the Company's sole and absolute discretion); and
- 2.1.3 any other conditions precedent as set out in the Order Form and/or the relevant Specific Conditions have been fulfilled (if any).

2.2 A quotation for the Products and/or Services given by the Company shall not constitute an offer. A quotation shall only be valid for a period of 20 (twenty) Business Days from its date of issue.

2.3 All quotations, estimates and tenders are given and contracts are made by the Company subject to and only upon the terms and conditions of this Contract, which cannot be varied unless agreed in writing by the Company in accordance with clause 17. These Conditions together with the relevant Specific Conditions as referred to in the Order Form are the only terms and conditions on which the Company will supply any Products and/or Services to the Customer under an Order Form and will apply to the exclusion of all other terms and conditions including any terms and conditions that the Customer purports to apply under any purchase order, confirmation, of order or similar document, (whether or not such document is referred to in this Contract) and any terms and conditions that may otherwise be implied by trade, custom, practice or course of dealing. Unless expressly set out in this Contract, all other terms, conditions and warranties that are implied by law are excluded to the fullest extent permitted by law.

2.4 In the event of a conflict or inconsistency between any of the documents that constitute this Contract, the following descending order of precedence shall apply:

- 2.4.1 the Order Form;
- 2.4.2 any applicable Specific Conditions;
- 2.4.3 any applicable Promotional Terms;
- 2.4.4 these Conditions;
- 2.4.5 any other documents referred to in the Order Form or in these Conditions or the Specific Conditions.



- 2.5 For the avoidance of any doubt, the fact any document listed in clause 2.4 is silent on a particular matter whereas any of the documents with lower precedence make provision for the same, shall be deemed not to give rise to a conflict or inconsistency.
- 2.6 Any delay or failure to supply Products and/or Services under this Contract shall not entitle the Customer (to the extent that any such entitlement exists to terminate this Contract) to terminate any other contract for other equipment, software and/or services between the parties, whether or not entered into under these Conditions or otherwise.

3 CUSTOMER INFORMATION AND CUSTOMER INPUT MATERIALS

- 3.1 The Customer shall be responsible for providing to the Company all Customer Input Material and Customer Information relevant to the supply of the Products and the provision of Services (as the case may be) in a timely manner and shall ensure that it is accurate and complete in all material respects to enable the Company to perform its obligations under this Contract.
- 3.2 Without limitation to the generality of clause 3.1, the Customer shall ensure that the details set out in an Order Form and any drawings, sketches, specifications (including without limitation in respect of the type and capacity of any available or installed connectivity), descriptions or instructions supplied by the Customer or any agent or representative of the Customer in connection with the supply of any Products or Services (as the case may be) ("**Customer Information**") are accurate, up to date and fully describe the Customer's requirements.
- 3.3 The Customer will inform the Company promptly of any subsequent changes to any Customer Information and/or Customer Input Material that the Customer supplies to the Company in connection with this Contract.

4 TERM AND MINIMUM TERM

- 4.1 Subject to clause 4.2, this Contract shall commence on the Effective Date and shall continue in full force and effect unless it is terminated in accordance with clause 10 (Force Majeure) or 12 (Termination), the Specific Conditions or any other express right of termination provided for in this Contract (the "**Term**").
- 4.2 Where this Contract is subject to a Minimum Term, this Contract shall continue in full force and effect for such Minimum Term and thereafter unless and until it is terminated in accordance with the clause 10 (Force Majeure) or 12 (Termination), the Specific Conditions or any other express right of termination provided for in this Contract.

5 COMPANY'S OBLIGATIONS

- 5.1 In supplying Products, the Company warrants that the Products shall conform as to the quality, quantity, description and specification described in the Order Form.
- 5.2 In providing the Services, the Company will:
- 5.2.1 use reasonable skill and care;
 - 5.2.2 use Company Personnel who are suitably skilled and experienced to perform tasks assigned to them; and
 - 5.2.3 comply with all Relevant Laws that are applicable to the Company and the performance of the Services generally.
- 5.3 Unless otherwise expressly agreed in this Contract, the Company will interact with and provide all Services through and in communication with the Customer Representatives, not directly in communication with any End Users.

6 PRICE AND CHARGES

- 6.1 The Prices and/or Charges shall be as set out in the Order Form or any Change.
- 6.2 All Prices and/or Charges referred to under these Conditions, the Order Form, any Promotional Terms and any Specific Conditions are (unless otherwise stated) exclusive of Value Added Tax (VAT) and any taxes of a similar nature, which may from time to time be introduced, that will be payable by the party paying the relevant sum at the rates in force at the date of the relevant invoice.
- 6.3 Unless otherwise agreed in the Order Form and without prejudice to any other price review provisions in this Contract, the Charges shall be reviewed each Contract Year on or after the first anniversary of the Effective Date during the Term (the "RPI Review Date") and, in the event of any increase in the RPI Figure during that Contract Year, the Charges then in force under the terms of this Contract shall be increased with effect from the RPI Review Date in the same proportion to any increase in the RPI Figure calculated from the RPI Figure last published before the Effective Date (or from the previous RPI Review Date (if any)) to the RPI Figure last published before the applicable RPI Review Date.



- 6.4 Without prejudice to any other price review provisions in this Contract, where this Contract is subject to a Minimum Term, the Charges may be reviewed and changed by the Company, such change to be effective at any time following the end of the Minimum Term, by the Company giving not less than 30 (thirty) days' written notice to the Customer.
- 6.5 Any additional or remedial Services necessary as a result of any failure of the Customer to provide the relevant Customer Obligations, including but not limited to those obligations set out in clause 3, will be regarded as additional Services and subject to additional Charges.

7 INVOICING AND PAYMENT

- 7.1 The Company shall be entitled to raise invoices at the times and/or frequency set out in the Specific Conditions and/or the Order Form or, if no such times are provided for, at any time prior to or following the delivery of the relevant Products and/or performance of the relevant Services.
- 7.2 Unless e-billing is expressly excluded in an Order Form, invoices will be made available for download by the Customer and the Customer will be notified at the e-mail address set out in the Order Form that the invoice is ready for downloading. Where e-billing is expressly excluded in an Order Form, the invoice may be sent to the registered address of the Customer (or other address of the Customer) at an additional cost to the Customer as set out in the Order Form.
- 7.3 Unless otherwise stated in the Specific Conditions, in the Order Form or otherwise expressly provided in this Contract, subject to clause 7.5, all Charges shall be paid by the Customer in full and cleared funds and within 30 (thirty) days from the date of each invoice. Payment of all sums due to the Company shall be made without any set-off whatsoever.
- 7.4 If payment of any sum payable to the Company is not made on or before the due date, the Company shall be entitled to charge interest thereafter on such sum at either the rate of 4 (four) per cent per annum above the current base rate of HSBC Bank plc from time to time.
- 7.5 If the Customer, acting reasonably and in good faith towards the Company, intends to dispute any amount due under an invoice, the Customer must do so in writing to the Company within 30 (thirty) days of the date of the invoice and provide the Company with all relevant information and evidence in support of the disputed charge and must in any event pay in accordance with clause 7.3 any part of such invoice that is not disputed in accordance with this clause.
- 7.6 The Customer shall procure that its owners and/or assigns are made aware of the Company carrying out searches with credit reference agencies relating to the creditworthiness of the Customer and/or its owners and assigns and the Customer shall, upon the Company's request, promptly supply or procure the supply of all information requested for a credit search with a credit reference agency.
- 7.7 Any omission or delay by the Company in invoicing any Charges for the Services shall not prohibit the Company from raising an invoice at a later date nor shall it relieve the Customer of any liability to pay the same.

8 CUSTOMER PREMISES

- 8.1 To enable the Company to fulfil its obligations under this Contract the Customer shall permit or procure permission for the Company and the Company Personnel to have reasonable access to such parts of the Customer Premises and relevant equipment and shall provide such reasonable assistance as the Company requests to enable the Company to perform the Services and/or deliver the Products. If the Company is refused access or prevented from accessing the Customer Premises, for whatever reason (save for any reasonable refusal due to the unsafe or unreasonable behaviour of Company Personnel), it will be relieved from all of its related performance obligations under this Contract and the Customer shall compensate the Company for any additional reasonable costs and expenses that the Company incurs as a result.
- 8.2 The Company will normally carry out work by appointment and during Normal Working Hours, unless otherwise agreed in the Order Form or by reference to relevant Specific Conditions, but may request the Customer to (and the Customer shall where reasonable) provide access at other times. In the event that the Customer cancels or reschedules on less than 5 (five) Business Days' notice before an appointment or misses any pre-arranged appointment, it shall be liable to the Company for any costs and expenses that the Company incurs as a result of such cancellation, rescheduling and/or missed appointment.
- 8.3 At the Customer's request, the Company may agree (at its sole discretion) to work outside Normal Working Hours and the Customer shall pay the Company's reasonable additional Charges for complying with such a request.
- 8.4 The Customer warrants, represents and undertakes that there are adequate health and safety provisions in place at the Customer Premises; that there is a suitable and safe working environment, including adequate workspace, electrical supplies, and suitable environmental conditions; and that the Customer holds third party public liability insurance with a reasonable level of cover.



- 8.5 The Customer shall ensure that written notice of all health and safety policies and procedures pertaining to the applicable Customer Premises are provided in advance to all Company Personnel attending the Customer Premises.
- 8.6 Save as otherwise expressly provided in this Contract and/or otherwise agreed in writing, the Customer shall procure all consents, licences and permissions necessary from landlords or other third parties for the carrying out of preparatory work, installation of Products and for the provision, use and operation of the Products and/or Services at the Customer Premises. The Customer shall provide copies of such consents, licences and permissions to the Company upon request. In the event that the Customer is not able to procure such necessary consents, licences and permissions within 180 (one hundred and eighty) days following the Effective Date, the Company shall be entitled to terminate this Contract, without liability, on not less than 30 (thirty) days' notice in writing to the Customer. If the Customer has not managed to procure the necessary consents, licences and permissions and the Company has commenced work and/or incurred costs the Customer shall, on request by the Company, pay the Company for all costs incurred up to the point of such termination (including, without limitation, any third party costs).
- 8.7 The Customer shall provide the Company with all relevant site and building plans or drawings (to include full details of all internal cabling runs) of the Customer Premises and provide the Company with full details of all other services in the vicinity of the Products and/or Services.
- 8.8 The Customer shall make available free of charge to the Company such equipment and/or facilities (including where applicable general office facilities and/or high access equipment) as may be expressly stated in the Order Form as a Customer Obligation in respect of the Services and/or Products.
- 8.9 The Customer is responsible for making good the Customer Premises after any work undertaken by the Company at a Customer Premises, including without limitation replacing and re-siting items and for re-decorating, save to the extent of any unreasonable or unnecessary damage caused by the Company.
- 8.10 The Customer must identify to the Company any asbestos contaminated areas at the Customer Premises prior to any commencement of Services at the Customer Premises. In the event that the Company discovers asbestos contaminated areas at the Customer Premises then it will cease work until the asbestos is removed or the area is made safe for the works to resume. The Company shall have no liability for any delay that is as a result of asbestos contamination and the Customer shall hold the Company harmless in this regard. The Customer shall be responsible for the removal of all asbestos at the Customer Premises and/or the co-ordination of and all costs incurred in connection with the engagement by the Customer of a company that specialises in the installation of cables in asbestos contaminated areas and shall compensate the Company for any additional costs and expenses, or wasted costs and expenses that the Company suffers or incurs due to the discovery of any asbestos.

9 LIMITATION AND EXCLUSION OF LIABILITY

- 9.1 Save as expressly set out in these Conditions or otherwise in this Contract, the Company makes no warranty in respect of the supply of Products and/or Services and all other terms, conditions and warranties, which may otherwise be implied into this Contract by law or course of dealings between the parties, are hereby excluded to the fullest extent legally permissible.
- 9.2 Nothing in this Contract excludes or restricts:
- 9.2.1 either party's liability for:
- (a) death or personal injury resulting from that party's negligence or its employees' negligence (while acting in the course of their employment);
 - (b) any fraud, fraudulent misrepresentation or fraudulent misstatement;
 - (c) any indemnity under this Contract;
 - (d) breach of any condition to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; and/or
 - (e) anything for which the parties cannot at law limit or exclude their liability; or
- 9.2.2 the Customer's liability to pay the Price and the Charges in accordance with this Contract.
- 9.3 Subject to clauses 9.2 and 9.4, neither party's liability to the other party for breach of contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising under or in connection with the performance or contemplated performance of its obligations under or in connection with this Contract, including any liability arising from a breach of, or a failure to perform or defect or delay in performance of any of that party's obligations under this Contract in any Contract Year shall not exceed 100% of the Price and/or Charges paid or payable in respect of the Contract Year during which the acts or omissions giving rise to the liabilities occurred, excluding the obligation on the Customer to pay the Price and/or the Charges themselves up to the actual value of the Price and/or Charges due



and payable under this Contract, which obligation shall in respect of the Customer be in addition to and outside of the liability cap under this clause.

- 9.4 Subject to clause 9.2, the liability of each party to the other party for breach of contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising under or in connection with the performance or contemplated performance of its obligations under or in connection with this Contract in respect of damage to or loss of leasehold or freehold real estate property shall not exceed £5,000,000 (five million pounds) in aggregate.
- 9.5 Subject to clause 9.2, the total aggregate Service Credits payable (if any) under this Contract in any Contract Year shall be limited to 10% of the Charges paid in the relevant Contract Year for the Services under this Contract that have resulted in Service Credits being payable. Service Credits shall be the sole and exclusive financial remedy of the Customer for, and in full and final settlement of, any failure by the Company to achieve the associated Service Levels and in respect of all loss, damages, costs and expenses caused by or relating thereto, regardless of the form of action.
- 9.6 Subject to clause 9.2, under no circumstances shall any member of the Company's Group or the Customer be liable to the other party under or in connection with this Contract for breach of contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise for any indirect, special or consequential losses or for any of the following losses or damages (in each case whether direct, indirect, special or consequential) even if such losses and/or damages were foreseeable or in the parties' reasonable contemplation or the relevant party was advised of the possibility of them in advance:
- 9.6.1 loss of profits;
 - 9.6.2 loss of business;
 - 9.6.3 depletion of goodwill, reputation or loss of opportunity and/or similar losses;
 - 9.6.4 loss of anticipated savings;
 - 9.6.5 loss of contract;
 - 9.6.6 loss of production, operating time or use;
 - 9.6.7 liability of the Customer to third parties;
 - 9.6.8 any loss to or interference with or corruption of any programs, information or data be it during the delivery, storage or transmission of the same or otherwise; or
 - 9.6.9 any pure economic loss or damages.
- 9.7 Each party will take reasonable steps to mitigate a loss, including where that loss occurs as a result of anything that may give rise to a claim under an indemnity.
- 9.8 The parties agree that the limitations and exclusions of liability set out in this Contract reflect the allocation of risk agreed between them and that such limitations and exclusions of liability are proportionate to the Charges to be paid to the Company. The Customer acknowledges and accepts that the Company has recommended that the Customer effects insurance for any losses or liabilities caused by any act or omission of the Company that shall not be recoverable from the Company under this Contract.
- 9.9 The Customer acknowledges and accepts that the Company shall have no liability to the Customer if the Company is prevented, hindered or delayed in or from performing any of its obligations under this Contract to the extent caused by any delay or failure of the Customer to provide any necessary Customer Obligations.
- 9.10 The parties acknowledge and agree that should any of the below circumstances or events occur (including any other service level exclusions detailed under the relevant Specific Conditions for the relevant Service) that either directly or indirectly affects the Company's ability to achieve the Service Levels or perform the Services, the Company will not be liable for any breach of the relevant Service Level (or any associated payment of the Service Credits (where applicable)) or failure to perform the relevant Services to the extent that:
- 9.10.1 any act or omission of the Customer, its agents, representatives or End Users prevents or delays the Company complying with its obligations;
 - 9.10.2 the Customer does not comply with its obligations under this Contract;
 - 9.10.3 any failure or delay of the Customer in complying with the Company's reasonable instructions, in providing any information requested by the Company or in providing any approvals related to the Services prevents or delays the Company complying with its obligations;



- 9.10.4 an incident results from an action or omission of any third party other than the Company (or its sub-contractors or third party providers) that affects the Company's ability to achieve the Services Levels or to perform the relevant Services;
- 9.10.5 the parties pre-agree in writing and/or pre-plan any undertakings such as preventative maintenance or planned infrastructure changes in advance that affects the Company's ability to achieve the Service Levels or perform the relevant Services during that agreed period of time;
- 9.10.6 any telephone calls made to the Service Desk that are terminated, lost, cut off or otherwise unable to complete that is not the fault, act or omission of the Service Desk technician;
- 9.10.7 the Company (including third parties where the Company owns the relationship) is not the sole resolution group for the applicable Service Level.

10 FORCE MAJEURE

- 10.1 If a party is prevented, hindered or delayed in or from performing any of its obligations under this Contract by any reason outside the reasonable control or responsibility of that party including, without limitation, for the failure of any Carrier to provide network services, capacity and/or connectivity (or any element thereof) to the Company on which it was reliant for the purposes of this Contract, any act of God, acts of public enemies, terrorist attacks, nuclear chemical or biological contamination, inclement weather, accidental damage, vandalism, utility outage or failure or shortage of power supplies (save to the extent the Company takes express responsibility for any uninterruptable power supplies under this Contract), flood, drought, lightning or fire, strike, lock-out, trade dispute or labour disturbance, denial of service attack (save to the extent the Customer has purchased a mitigation service from the Company under this Contract), hacking, spamming, virus or other hostile computer program, war, blockade, riot, explosions, embargo, pandemic, any act or omission or regulation(s) of Government, highways authorities, or other competent authorities ("Force Majeure Event"), that party shall not be in breach of this Contract or otherwise liable to the other party for any such failure or delay in the performance of such obligations and the time for performance of such obligations (under the Service Levels or otherwise) shall be extended accordingly.
- 10.2 The party prevented, hindered or delayed in or from performing any of its obligations under this Contract by a Force Majeure Event will;
 - 10.2.1 promptly notify the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
 - 10.2.2 use reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Contract in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.
- 10.3 If any Force Majeure Event prevails for a continuous period of more than 30 (thirty) days, either party may terminate the affected part(s) of this Contract by giving 7 (seven) days' written notice to the other party. On the expiry of this notice period, the relevant part(s) of this Contract will terminate accordingly, without affecting the remaining part(s) of this Contract.

11 SUSPENSION

- 11.1 Without prejudice to any other right of the Company to suspend or terminate any or all of the Services and/or the delivery of any Products under these Conditions, the Company may at its sole discretion elect to suspend provision of any Services or supply of any Products until further notice without liability to the Customer having given the Customer reasonable notice either orally (confirming such notification in writing) or in writing in the event that:
 - 11.1.1 subject to clause 7.5, the Customer has failed to pay the Price and/or the Charges (or any of them) to the Company within 14 (fourteen) days of written notice from the Company notifying the Customer of its intention to suspend if payment of the overdue amount is not remedied;
 - 11.1.2 an Emergency occurs and/or the Company is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative or regulatory authority (including without limit, OFCOM or the Phone-paid Services Authority);
 - 11.1.3 the Company has reasonable grounds to believe that any of the Services and/or Products are being used fraudulently, unlawfully or by an unauthorised third party or in an unauthorised or fraudulent manner or that there has been or is likely to be a breach of security (including a breach of the Customer's obligations under clause 18);
 - 11.1.4 any licence under which the Company and/or the relevant Carrier has the right to run its telecommunications system and/or connect the Services or supply any of the Services is revoked, amended or otherwise ceases to be valid;



- 11.1.5 there are reasonable grounds for the Company to believe that the health and safety of its employees may be compromised in the performance of the Services and/or delivery of the Products;
 - 11.1.6 Company Personnel are abused or mistreated during the performance of the Services; or
 - 11.1.7 any maintenance or repair is necessary (for the purposes of new provision, updating facilities, general maintenance or otherwise) or required to any relevant Service Provider, Carrier or other third party network or related systems or equipment (for the avoidance of doubt, in the event of emergency maintenance or repair, the Company may not be able to give any advance notice).
- 11.2 The Customer shall reimburse to the Company all reasonable costs and expenses incurred by the implementation of a suspension pursuant to clauses 11.1.1, 11.1.3, 1.1.5 and/or 11.1.6 and the recommencement of the provision of the Services as appropriate.

12 TERMINATION

- 12.1 Without prejudice to any other rights of the Customer or the Company under this Contract, either party may terminate this Contract for any reason whatsoever and without any liability to the other party by giving not less than 6 (six) months' written notice to the other party, such termination to be effective (i) on the last day of any applicable Minimum Term provided for in this Contract; or (ii) where this Contract has continued beyond any Minimum Term provided for in this Contract, on the next anniversary of the end of such Minimum Term.
- 12.2 Without prejudice to clauses 12.1, 12.3 or 12.4, this Contract may be terminated immediately by either party by notice in writing to the other if the other party materially breaches its obligations under this Contract and in the case of breaches that are capable of remedy such party fails to remedy such breach within 30 (thirty) days of the written notice by the other party, provided that such notice contains details of what the breach is and requests that the breach is remedied by reference to this clause 12.2.
- 12.3 Notwithstanding anything to the contrary expressed or implied in this Contract, either party (without prejudice to its own rights) may terminate this Contract immediately on notice in writing to the other party, in the event that:
- 12.3.1 the other party suspends, or threatens to suspend, payment of its debts, is unable to pay its debts as they fall due, admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a partnership) any partner of the partnership is deemed either unable to pay their debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986; or
 - 12.3.2 the other party commences or proposes to commence negotiations with all, or any class of, its creditors with a view to rescheduling any of its debts, or makes a proposal for, or enters into any compromise or arrangement with its creditors; or
 - 12.3.3 an application is made to court, or an order is made, for the appointment of an administrator, a notice of intention to appoint an administrator is given, or an administrator is appointed over the other party; or
 - 12.3.4 a floating charge holder over the assets of that other party has become entitled to appoint, or has appointed, an administrative receiver; or
 - 12.3.5 a person becomes entitled to appoint a receiver over the assets of the other party, or a receiver is appointed over the assets of the other party; or
 - 12.3.6 a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 (fourteen) days; or
 - 12.3.7 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 12.3.1 to clause 12.3.6 (inclusive); or
 - 12.3.8 the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business.
- 12.4 The Company shall be entitled to terminate this Contract immediately on notice in writing to the Customer in circumstances where it also has a right to suspend the provision of the Services pursuant to clauses 11.1.1 to 11.1.4 (inclusive).
- 12.5 Without prejudice to any other right the Company may have, the Company may terminate any relevant part of this Contract and/or terminate any licence granted pursuant to clause 13.1 or clause 19.2 without terminating the whole Contract in the event of either (i) an irremediable breach by the Customer of clause 13 or 19 (as applicable) or (ii) following notice by the Company in writing of a breach by the Customer of clause 13 or 19 (as applicable) that is capable of remedy, the Customer fails to remedy the breach within 30 (thirty) days of the receipt of such notification.



- 12.6 Any implied right to terminate for convenience that the Customer may have under Relevant Law is hereby expressly excluded.
- 12.7 The termination of this Contract shall be without prejudice to any rights or liabilities that have accrued prior to such termination. Any provision of this Contract that expressly or by implication is intended to survive termination shall survive the termination of this Contract.
- 12.8 Upon expiry or termination of this Contract howsoever arising, the Company will:
- 12.8.1 allow the Customer reasonable access to the Company's premises upon reasonable notice, to collect any equipment or materials owned by the Customer;
 - 12.8.2 deal with the Customer's Confidential Information in the possession or control of the Company relating to this Contract in accordance with clause 15.4; and
 - 12.8.3 provide reasonable account details relating to the Services, including but not limited to lists of telephone numbers to which the Services relate, account balances, copy invoices and any migration codes required to transfer the Services.
 - 12.8.4
- 12.9 Following notice to terminate the Contract being served by either party pursuant to clause 12.1, where requested by the Customer in writing, the Company will within a reasonable time:
- 12.9.1 make available an exit manager to assist the Customer with the organisation and co-ordination of the provision of exit assistance;
 - 12.9.2 assist the Customer with the production of an exit management plan;
 - 12.9.3 provide exit assistance in accordance any agreed written exit management plan; and
 - 12.9.4 provide reasonable technical information relating to the Services and Products; noting that the Company will be entitled to remove its IP from any configuration and any data considered a security risk;
- subject in each case to such assistance being chargeable and calculated on a time and materials basis at the Company's prevailing standard rates and subject to payment of any relevant third party costs, for example the extension or renewal of any Third Party Software licences.
- 12.10 Following notice to terminate this Contract being served by either party pursuant to this clause 12, the Customer unless otherwise agreed in writing by the parties, is responsible for extracting, transferring or downloading, as appropriate, any and all data, records and information of the Customer that the Customer has direct electronic access to as part of the Services and that the Customer wishes to retain. The Customer will confirm in writing to the Supplier without undue delay that all relevant data migration has been completed.
- 12.11 If the Company agrees to extend the termination or expiry date for the Contract or applicable Services beyond the relevant date of termination or expiry of this Contract or applicable Services, then during any such extension:
- 12.11.1 all Service Levels and Service Credits will cease to apply, except to the extent otherwise agreed in writing by the Company;
 - 12.11.2 the Company will use reasonable endeavours only to provide the Services;
 - 12.11.3 the Customer will continue to pay the Charges in accordance with this Contract or as otherwise agreed in writing between the parties; and
 - 12.11.4 the Customer acknowledges that the Charges may be reasonably adjusted by the Company to reflect increased third party costs during the extension period and/or may need to include the renewal of Third Party Software licences or other support contracts or obligations, which will be at the Customer's cost (in full) and/or subject to subsequent early termination fees, which will be at the Customer's cost (in full).
- 12.12 On termination of this Contract for any reason:
- 12.12.1 unless otherwise agreed in writing by the parties, all licences granted under this Contract shall immediately terminate;
 - 12.12.2 each party shall make available for collection or, where agreed, arrange the return of and make no further use of any equipment, assets and materials and other items belonging to the other party; and
 - 12.12.3 the Company may destroy or otherwise dispose of any of the Customer's data in its possession unless the Company receives, no later than 10 (ten) days after the effective date of the termination or expiry of this Contract, a written request for the delivery to the Customer of the then most recent back-up of the Customer's data or other data then



in the Company's possession or control. The Company shall deliver the said back-up or other data of the Customer to the Customer within a reasonable time of such written request, subject to such assistance being chargeable and calculated on a time and materials basis at the Company's prevailing standard rates and subject to payment of any relevant third party costs.

13 SOFTWARE

Company Software

- 13.1 Where the Company provides Company Software, the Company grants to the Customer a non-exclusive, non-transferable, royalty free, revocable licence for the Customer to use the Company Software (and any connected documentation) solely for the Term, for the Customer's internal business purposes and for the purposes of this Contract. The Customer's use of any Company Software shall constitute the Customer's consent to the relevant licence terms contained within the relevant Company Software (in a click through form or otherwise) or otherwise notified to the Customer from time to time. If required by the Company, the Customer shall sign such separate licence agreement as may be reasonably required by the Company for the Customer to be licensed to use the Company Software.
- 13.2 Save as otherwise expressly provided for in this Contract, the licence under clause 13.1 for any Company Software is personal to the Customer and the Customer is only licensed to use the Company Software for the benefit of the Customer in accordance with the express terms of this Contract and not further or otherwise. Any licence for any Company Software shall terminate automatically upon the termination of this Contract.
- 13.3 The Software and the Software documentation and any Intellectual Property Rights of whatever nature therein shall remain the property of the Company or its licensors or the applicable third party. The Customer acknowledges that it shall not acquire any right, title or interest in or to any Company Software other than the right to use such software under this Contract and the applicable licence terms.

Third Party Software

- 13.4 Where the Company provides Third Party Software, the Customer shall sign or otherwise consent to the relevant end user licence agreement as required by the Company or relevant Vendor to protect the Vendor's interest in the Third Party Software and for the Customer to be able to use the Third Party Software, including any such license terms that are embedded in any Third Party Software in a click through form or otherwise.
- 13.5 The Customer shall comply with all licence terms and conditions applicable to Third Party Software, including those that are embedded in any Third Party Software in a click through form or otherwise and those that are notified by Company or the Vendor to the Customer from time to time.
- 13.6 The Customer acknowledges that:
- 13.6.1 its continued use of any Third Party Software is conditional on its compliance with the licence terms and conditions applicable to such Third Party Software, as notified to the Customer by the Company or the Vendor, as set out in this Contract and/or as embedded in any Third Party Software in a click through form or otherwise; and
- 13.6.2 it shall not acquire any right, title or interest in or to any Third Party Software other than the right to use such software under this Contract.

General

- 13.7 The Customer shall notify the Company immediately if the Customer becomes aware of any unauthorised use of the whole or any part of any Software (or connected documentation).
- 13.8 Except as permitted by Relevant Law or as expressly permitted under this Contract, the Customer shall not translate, adapt, disassemble, decompile, reverse engineer, modify, duplicate the functionality of, adapt, enhance or extend any Software (or any part of it) or copy the relevant manual or documentation (or any part of it) without the Company's prior written consent and will not distribute or disclose the Software to any third party other than as expressly permitted in this Contract.
- 13.9 The Customer shall not combine, merge or otherwise permit any Software (or any part of it) to become incorporated in any other software, application or program, nor arrange or create derivative works based on the Software.
- 13.10 The Customer shall not, copy the Software or connected documentation (or any part of it), except for permitted back-ups in accordance with the relevant licence terms, provided that the Customer keeps accurate and up-to-date records of such copying containing such information as the Company reasonably requests.
- 13.11 The Customer's use of the Software is limited to the number of access points set out in the Order Form and the Customer agrees that any attempt to use the Software by more than the specified number of End Uses shall constitute a material breach of this Contract and/or the relevant Vendor licence agreement.



- 13.12 The Customer shall, and shall procure that all End Users shall, comply with all Software licence terms and conditions, including those that are embedded in any Software in a click through form or otherwise.
- 13.13 The Customer acknowledges and accepts that the Company shall have no liability to the Customer in the event that an End User is unable to access any Products and/or Services due to failure to provide any necessary Customer Input Materials or the Customer's failure to agree to or to comply with any relevant license terms for Software.
- 13.14 The Customer shall not, distribute, license, sell or otherwise deal in or encumber the Software (or connected documentation).
- 13.15 The Customer shall not use the Software and/or Software documentation on behalf of or make it available to any third party or allow or permit a third party to do so, save as otherwise provide in and in accordance with the relevant licence terms.
- 13.16 The Customer shall effect and maintain adequate security measures to safeguard the Software from theft or unauthorised use.
- 13.17 The Customer shall not use the Software contrary to any restriction set out in this Contract or otherwise in a way that is not expressly permitted by this Contract. The Customer's right to use the Software and any connected documentation shall not include the rights of any third party to use or have access to the Software and any documentation and in any event, the Customer shall ensure that all such use does not exceed the Customer's permitted use in accordance with the relevant license terms.
- 13.18 The Customer's obligations and undertakings under this clause 13 and under any relevant licence terms shall survive termination of any Software licence and/or this Contract.

14 CALL MONITORING

The Company may monitor and record calls made to or by the Company by or to the Customer (and/or any of their employees or personnel), for training purposes, to improve the quality of its customer services and to assist with complaint handling. The Customer undertakes to make its employees and personnel aware of the rights reserved by the Company under this clause in accordance with the Data Protection Laws (as defined below).

15 CONFIDENTIALITY

- 15.1 The Company and the Customer will keep in confidence any information of the other, whether written or oral, of a confidential nature obtained under or in connection with this Contract ("**Confidential Information**") except to the extent any disclosure is required by law and subject to clause 15.2. The Customer and the Company will not, without the consent of the other, disclose such Confidential Information to any person other than:
 - 15.1.1 their employees, contractors or professional advisers who shall require the information in order for the Customer or the Company to fulfil its obligations under this Contract; or
 - 15.1.2 in the case of the Customer, its End Users to the extent that they are required to use or access the Services and/or Products.
- 15.2 Information shall not be treated as Confidential Information if it is:
 - 15.2.1 lawfully in the public domain; or
 - 15.2.2 lawfully in the possession of the Customer or the Company before disclosure from the other has taken place; or
 - 15.2.3 obtained from a third person who is entitled to disclose it; or
 - 15.2.4 replicated independently by someone without access or knowledge of the information.
- 15.3 If the Customer receives a request under the Freedom of Information Act 2000 that encompasses any information provided to the Customer by the Company in connection with this Contract the Customer will notify the Company immediately of the request and give the Company at least 10 (ten) Business Days to make representations before releasing the requested information (save to the extent otherwise required by law).
- 15.4 Subject to clauses 12.10, 12.12.3 and 15.5, where a party who has disclosed Confidential Information so requests and following termination of this Contract for whatever reason, each party who has received any Confidential Information of the other party shall upon request in writing, within 30 (thirty) days:
 - 15.4.1 return to the other party, in a form capable of delivery, anything containing or recording the Confidential Information, whether in the form of documents disks or any other media; and
 - 15.4.2 confirm in writing that any such Confidential Information not returned has been destroyed or made permanently unusable (any third party certification would be an additional service with additional Charges applicable).



15.5 The Company shall not be required to return Confidential Information pursuant to clause 15.4 where the continuing use or disclosure of such Confidential Information is necessary in order for the Company or any member of the Company's Group to exercise its rights or perform Services under this Contract or where the Company is required to maintain such Confidential Information pursuant to any Relevant Laws or for any other purpose specified in this Contract.

15.6 The Customer acknowledges that the Software and Pre-existing Materials are Confidential Information.

16 DATA PROTECTION

16.1 In this clause, unless the context otherwise requires, the following definitions shall apply:

"Data Client"	means in relation to any Protected Data whichever of; (i) the Customer or member of the Customer's Group; or (ii) any customer or end-customer of the Customer; (iii) is the Controller in relation to that Protected Data;
"Data Protection Laws"	means all applicable law relating to data protection, the processing of personal data and privacy, including without limitation: (i) the Data Protection Act 2018; (ii) the General Data Protection Regulation (EU) 2016/679; and (iii) the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as amended); and references to Controller, Processor, Data Subjects, Personal Data, Process, Processed, Processing, Processor and Supervisory Authority have the meanings set out in, and will be interpreted in accordance with, such Data Protection Laws;
"Data Protection Losses"	means all liabilities, including all: (i) reasonable costs (including legal costs), claims, demands, actions, settlements, interest, charges, procedures, expenses, losses and damages (including relating to material or non-material damage); and (ii) to the extent permitted by Relevant Laws, (a) administrative fines, penalties, sanctions, liabilities or other remedies imposed by a Supervisory Authority; (b) compensation that is ordered by a Supervisory Authority to be paid to a Data Subject; and (c) reasonable costs of compliance with investigations by a Supervisory Authority;
"Data Security Incident"	means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Protected Data transmitted, stored or otherwise Processed;
"Data Subject Request"	means a request made by a Data Subject to exercise any rights of Data Subjects under Data Protection Laws;
"GDPR"	means the General Data Protection Regulation (EU) 2016/679;
"International Transfer"	means a transfer to a country outside the United Kingdom and/or the European Economic Area (as it is made up from time to time) of Protected Data that is undergoing Processing or that is intended to be Processed after transfer;
"Processing Instructions"	has the meaning given to that term in clause 16.3.1(a);
"Protected Data"	means Personal Data that has been passed to the Company and is required to be Processed under this Contract by the Company as a Processor, which is more particularly described in the Data Protection Annex to these Conditions; and
"Sub-Processor"	means any third party appointed by the Company to Process the Protected Data.

16.2 Processor and Controller

16.2.1 The parties acknowledge and agree that, for the Protected Data, the Customer (or the relevant Data Client) shall be the Controller and the Company shall be the Processor.

16.2.2 The Customer authorises the Company to Process the Protected Data during the Term as a Processor for the purpose set out in the Data Protection Annex to these Conditions.

16.2.3 The Company shall Process Protected Data in compliance with:

- (a) the obligations of Processors under Data Protection Laws in respect of the performance of its obligations under this Contract; and
- (b) the terms of this Contract.



16.2.4 The Customer shall (and shall if the Customer is not the Controller ensure that the relevant Controller shall) comply with:

- (a) all Data Protection Laws in connection with the Processing of Protected Data, the Services and/or Products and the exercise and performance of its respective rights and obligations under this Contract, including maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws; and
- (b) the terms of this Contract.

16.2.5 The Customer warrants to the Company that:

- (a) it has all necessary rights to authorise the Company to Process Protected Data in accordance with this Contract and the Data Protection Laws;
- (b) all data sourced by the Customer for use in connection with the Services and/or Products, shall comply in all respects, including in terms of its collection, storage and Processing (which shall include the Customer providing all of the required fair processing notices and information to, and obtaining all necessary consents from, Data Subjects), with Data Protection Laws;
- (c) it will not send any Protected Data to the Company that is not necessary for the Company to provide the Services and/or Products; and
- (d) its instructions to the Company relating to Processing of Protected Data will not put the Company in breach of Data Protection Laws, including with regard to International Transfers.

16.2.6 If the Company reasonably considers that any instructions from the Customer relating to Processing of Protected Data may put the Company in breach of Data Protection Laws, the Company will be entitled not to carry out that Processing and will not be in breach of this Contract or otherwise liable to the Customer as a result of its failure to carry out that Processing.

16.2.7 The Customer shall remain fully liable for the acts or omissions of each Data Client as if they were its own.

16.3 Instructions and Details of Processing

16.3.1 Insofar as the Company Processes Protected Data on behalf of the Customer in connection with the provision of the Services and/or Products to the Customer under this Contract, the Company:

- (a) unless required to do otherwise by Relevant Laws, shall (and shall ensure that any Sub-Processor shall) Process the Protected Data only on and in accordance with the Customer's documented instructions as set out in this clause 16 and the Data Protection Annex to these Conditions (together the "Processing Instructions");
- (b) shall, if Relevant Laws require it to process Protected Data other than in accordance with the Processing Instructions, notify the Customer of any such requirement before Processing the Protected Data (unless Relevant Laws prohibit such information on grounds of public interest); and
- (c) promptly inform the Customer if the Company becomes aware of a Processing Instruction that, in the Company's opinion, infringes Data Protection Laws in the course of providing the Services and/or Products, provided that:
 - (i) this shall be without prejudice to clauses 16.2.4 and 16.2.5; and
 - (ii) to the maximum extent permitted by law, the Company shall have no liability howsoever arising (whether in contract, tort (including negligence) or otherwise) for any losses, costs, expenses or liabilities (including any Data Protection Losses) arising from or in connection with any Processing in accordance with the Customer's Processing Instructions following the Customer's receipt of that information under this clause (c).

16.3.2 The Processing of Protected Data to be carried out by the Company under this Contract as a Processor shall comprise the Processing set out in the Data Protection Annex to these Conditions, as may be updated from time to time as agreed in writing between the parties.

16.3.3 In respect of the Personal Data that the Company Processes as a Controller in connection with the Services and/or Products (for example, in relation to Customer account management and billing), the Customer will:

- (a) provide reasonable assistance to the Company, including to provide fair processing notices to the relevant Data Subjects and obtaining consents if necessary, to enable the Company to comply with the Data Protection Laws;
- (b) ensure that it is not subject to any prohibition or restriction that would:



- (i) prevent or restrict it from disclosing or transferring the relevant Personal Data to the Company, as required under this Contract; or
- (ii) prevent or restrict the Company from Processing the Personal Data as appropriate in connection with this Contract.

16.4 Technical and Organisational Measures

The Company shall implement and maintain, at its cost and expense, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the Processing, appropriate technical and organisational measures to ensure a level of security appropriate to the risk.

16.5 Sub-Processors

- 16.5.1 The Customer acknowledges and agrees that the Company may engage third-party Sub-Processors in connection with the provision of the Services and/or Products. The Company has entered or will enter into a written agreement with each Sub-Processor containing data protection obligations no less protective than those in this Contract with respect to the protection of Protected Data to the extent applicable to the nature of the Services and/or Products provided by each Sub-Processor.
- 16.5.2 The Company shall make available to the Customer the current list of Sub-Processors. The Company will inform the Customer of any proposed addition or replacement of a Sub-Processor thereby giving the Customer an opportunity to object (acting promptly, reasonably and in good faith towards the Company) to such changes. If the Customer does not provide any objections within 30 (thirty) days of the notice from the Company regarding the proposed changes to Sub-Processors, without limiting any of its rights or remedies under the Data Protection Laws, the Customer shall be deemed to have consented to such changes.
- 16.5.3 In the event that the Customer rejects any proposed addition or replacement of a Sub-Processor in accordance with clause 16.5.2, without prejudice to any other rights and remedies of the Company:
 - (a) the Company shall not be liable to the Customer for any failure to perform or delay in the performance of its obligations under this Contract arising as a result of such rejection by the Customer of any proposed addition or replacement of a Sub-Processor; and
 - (b) the Customer shall bear all costs incurred by the Company in the procurement of a suitable replacement Sub-Processor to replace the rejected Sub-Processor (if applicable).
- 16.5.4 If the Company appoints a Sub-Processor, the Company shall:
 - (a) prior to the relevant Sub-Processor carrying out any Processing activities in respect of the Protected Data, appoint such Sub-Processor under a written contract that imposes the same (in substance) terms to those imposed on the Company under this Contract that is enforceable by the Company; and
 - (b) remain fully liable for the acts and omissions of each Sub-Processor as if they were its own.
- 16.5.5 The Company shall ensure that all persons authorised by it (or by any Sub-Processor) to Process Protected Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality (except where disclosure is required in accordance with Relevant Laws, in which case the Company shall, where practicable and not prohibited by Relevant Laws, notify the Customer of any such requirement before such disclosure).

16.6 Assistance with the Customer's Compliance and Data Subject Rights

- 16.6.1 The Company shall, to the extent permitted under Relevant Laws, promptly notify the Customer if it receives a Data Subject Request relating to the Protected Data, Services and/or Products. Taking into account the nature of the Processing, the Company shall assist the Customer by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the Customer's (or the relevant Data Client's) obligation to respond to a Data Subject Request under Data Protection Laws, provided that if the number of Data Subject Requests exceeds 3 (three) per calendar month, the Customer shall pay the Company's charges calculated on a time and materials basis at the Company's then current prevailing rates for recording and referring the Data Subject Requests in accordance with this clause 16.6.
- 16.6.2 The Company shall provide such reasonable assistance to the Customer as the Customer reasonably requires (taking into account the nature of Processing and the information available to the Company) in ensuring compliance with the Customer's obligations under Data Protection Laws with respect to:
 - (a) complying with its obligations under the Data Protection Laws relating to the security of Processing Protected Data;



- (b) conducting privacy impact assessments of any Processing operations and consulting with Supervisory Authorities, Data Subjects and their representatives accordingly (as such term is defined in Data Protection Laws);
 - (c) responding to requests for exercising Data Subjects' rights under the Data Protection Laws, including by appropriate technical and organisational measures, insofar as this is possible;
 - (d) prior consultation with a Supervisory Authority regarding high risk processing; and
 - (e) notifications to the Supervisory Authority and/or communications to Data Subjects by the Customer in response to any Data Security Incident,
- provided the Customer shall pay the Company's charges for providing the assistance in this clause 16.6.2, such charges to be calculated on a time and materials basis at the Company's then current prevailing rates.

16.7 International Data Transfers

The Company will only make an International Transfer of Protected Data if:

- 16.7.1 a competent authority or body of the United Kingdom or the European Commission (as applicable) makes a binding decision that the country or territory to which the International Transfer is to be made ensures an adequate level of protection for Processing of Personal Data;
- 16.7.2 the Company or the relevant Sub-Processor provides adequate safeguards for that International Transfer in accordance with Data Protection Laws, in which case the Customer will execute (and ensure the relevant Data Client(s) execute) any documents (including data transfer agreements) relating to that International Transfer which the Company or the relevant Sub-Processor requires it to execute from time to time; or
- 16.7.3 the Company or the relevant Sub-Processor is required to make the International Transfer to comply with Relevant Laws, in which case the Company will notify the Customer of such legal requirement prior to such International Transfer unless such Relevant Laws prohibit notice to the Customer on public interest grounds.

16.8 Records, Information and Audit

- 16.8.1 The Company shall maintain, in accordance with Data Protection Laws binding on the Company, written records of all categories of Processing activities carried out on behalf of the Customer.
- 16.8.2 The Company shall, in accordance with Data Protection Laws, upon prior written request make available to the Customer in respect of the Protected Data:
 - (a) a summary of the Company's annual internal audit reports demonstrating the Company's compliance with its obligations as a Processor under Data Protection Laws; and
 - (b) confirmation that the audit has not revealed any material vulnerability in the Company's systems, or to the extent that any such vulnerability was detected, that the Company has taken steps to remedy such vulnerability.
- 16.8.3 If the measures set out at clause 16.8.2 are not sufficient to confirm the Company's compliance with Data Protection Laws, the Company will allow for and contribute to audits, including inspections, by the Customer (or another auditor mandated by the Customer) as is reasonably necessary to demonstrate the Company's compliance with its obligations in respect of the Protected Data under Article 28 of the GDPR (and under any Data Protection Laws equivalent to that Article 28), subject to the Customer:
 - (a) giving the Company reasonable prior notice of such information request, audit and/or inspection being required by the Customer;
 - (b) the parties mutually agreeing upon the scope, timing and duration of the audit;
 - (c) ensuring that all information obtained or generated by the Customer or its auditor(s) in connection with such information requests, inspections and audits is kept strictly confidential (save for disclosure to the Supervisory Authority or as otherwise required by Relevant Laws);
 - (d) ensuring that such audit or inspection is undertaken during Normal Working Hours, with minimal disruption to the Company's business, the Sub-Processors' business and the business of other customers of the Company; and
 - (e) paying the Company's reasonable charges for assisting with the provision of information and allowing for and contributing to inspections and audits.

16.9 Breach Notification and Compensation Claims



- 16.9.1 In respect of any Data Security Incident involving Protected Data the Company shall, without undue delay, notify the Customer of the Data Security Incident and provide the Customer with relevant details of the Data Security Incident and the Customer, if it is not the Controller, shall ensure it provides such notification to the relevant Controller without undue delay.
- 16.9.2 If a party receives a compensation claim from any person relating to Processing of Protected Data, it shall promptly provide the other party with notice and full details of such claim. The party with conduct of the claim shall:
- (a) make no admission of liability nor agree to any settlement or compromise of the relevant claim without the prior written consent of the other party (which shall not be unreasonably withheld or delayed); and
 - (b) consult fully with the other party in relation to any such action, but the terms of any settlement or compromise of the claim will be exclusively the decision of the party that is responsible for paying the compensation.

16.10 Deletion or Return of Protected Data and Copies

The Company shall, at the Customer's written request, either delete or return all the Protected Data to the Customer in such format as the Customer reasonably requests within a reasonable time after the earlier of:

16.10.1 the end of the provision of the relevant Services and/or Products related to the Processing of Protected Data; or

16.10.2 once Processing by the Company of any Protected Data is no longer required for the purpose of the Company's performance of its relevant obligations under this Contract,

and delete existing copies (unless storage of any Protected Data is required by Relevant Laws and, if so, the Company shall inform the Customer of any such requirement).

17 CHANGES AND VARIATIONS TO THESE CONDITIONS, SPECIFIC CONDITIONS AND CONTRACT

- 17.1 The Company may change these Conditions and/or any Specific Conditions at any time to comply with Relevant Laws or the direction of any regulatory authority and will publish any such change online at www.dcs.tech (or at such other URL as is notified to the Customer by the Company from time to time) and/or by notice in writing to the Customer stating that these Conditions and/or any Specific Conditions have changed and providing a link to the new Conditions and/or Specific Conditions, as soon as is reasonably practical in the circumstances prior to the changes taking effect.
- 17.2 Subject to clause 17.1 and without prejudice to clause 17.3, no variation, supplement, deletion or replacement of or from this Contract or any of its terms shall be effective unless it is made in writing and is signed by or on behalf of each party.
- 17.3 Any Changes permitted in accordance with the Specific Conditions shall be made in accordance with the relevant process for such Changes as set out in the Specific Conditions and shall not require a formal Variation.
- 17.4 The Company may, if requested by the Customer, from time to time provide additional services in accordance with the relevant Specific Conditions, such additional services shall be deemed to be included within the Services and shall be subject to additional Charges.

18 FRAUD AND SECURITY

- 18.1 The Customer shall ensure that user names and passwords, log-in details and access codes used for the purposes of accessing or using the Services, the Products or any systems, network elements or equipment used by it and/or End Users in connection with the Services and/or Products are kept secure and confidential at all times and are only used by authorised users. The Customer shall inform the Company immediately if the Customer knows or suspects that an End User name or password has been disclosed to an unauthorised user, or is being used in an unauthorised way, or if there is any illegal, fraudulent or unauthorised use of the Services and/or Products.
- 18.2 In the event of any illegal, fraudulent or unauthorised use of the Services and/or Products, the Company reserves the right (at the Company's sole discretion) to ask the Customer to (in which case, the Customer shall) change any or all of the passwords the Customer uses in connection with the Services and/or Products.
- 18.3 The Customer accepts and acknowledges that the Services and Products are not guaranteed to be secure and the Company does not guarantee the prevention or detection of any unauthorised attempts to access the Services and/or Products.
- 18.4 Any assistance given by the Company in relation to fraudulent and/or unauthorised use by third parties (or the prevention of such use) will be on a reasonable endeavours basis only and no liability can be accepted by the Company for any loss sustained by the Customer via fraudulent and/or unauthorised means that are beyond the Company's reasonable control (save for any fraud and/or unauthorised use by an employee of the Company acting in that capacity).
- 18.5 Save to the extent expressly provided as a Service by the Company under this Contract, the Customer remains at all times responsible for:



- 18.5.1 preventing unauthorised or fraudulent use of the Products and/or Services; and
- 18.5.2 maintaining the security of all systems, network elements and equipment within its (or its employees', agents' or contractors') control.
- 18.6 Without limitation, the Customer shall put in place and comply at all times with the following security measures:
 - 18.6.1 the Customer shall ensure that any password used in connection with the Products and/or Services is strong and is made up of not less than eight characters, which shall include at least one number, one letter and one alphanumerical symbol;
 - 18.6.2 the Customer shall regularly and at least every 6 (six) weeks change the password set out at clause 18.6.1 above;
 - 18.6.3 the Customer shall restrict access to passwords to key individuals;
 - 18.6.4 the Customer shall ensure that it has up to date anti-virus protections and that it has firewalls in place, which are maintained by the Customer in accordance with best industry practices; and
 - 18.6.5 the Customer shall, without delay, follow any security directions given to it by the Company from time to time.

19 INTELLECTUAL PROPERTY RIGHTS

- 19.1 As between the Customer, the Company and any member of the Company's Group, the Customer acknowledges that (i) all Intellectual Property Rights and all other rights in the Services, the Pre-existing Materials and the Software (other than the Third Party Software) are owned by and shall remain the property of the Company or the applicable member of the Company's Group or its suppliers or licensors and (ii) the Third Party Software is owned by the relevant Vendor. Unless expressly stated to the contrary in the Order Form, by reference to this clause 19.1, all Intellectual Property Rights developed by or on behalf of the Company or applicable member of the Company's Group during the performance of the Services shall vest in such entity absolutely.
- 19.2 Subject to clause 19.1, the Company hereby licenses the Customer to use the Pre-existing Materials on a non-exclusive, royalty-free, non-transferable basis to such extent as is necessary to enable the Customer to make use of the Products and the Services in accordance with this Contract. Without prejudice to clause 12.5, if this Contract (or a relevant part of this Contract) is terminated for whatever reason, this licence shall automatically terminate.
- 19.3 If and to the extent that the Company, any member of the Company's Group, any sub-contractor and/or Company Personnel are required to use any Customer Input Materials, Customer Information or equipment belonging to the Customer or any third party for the purposes of providing the Services and/or Products, the Customer hereby grants to the Company, Company's Group, the relevant sub-contractors and Company Personnel (or shall procure the grant to the Company of) a non-exclusive, royalty-free, non-transferable licence to use such Customer Input Materials and/or Customer Information and/or Customer equipment to the extent necessary to enable the Company Personnel to provide the Services and/or Products in accordance with the terms of this Contract. If this Contract is terminated for whatever reason, this licence will automatically terminate.
- 19.4 Subject to clauses 19.5 to 19.7 (inclusive) and clause 19.9 the Company shall indemnify the Customer and keep the Customer indemnified against all losses, damages, reasonable costs or reasonable expenses and other liabilities (including reasonable legal fees) incurred by, awarded against or agreed to be paid by the Customer arising from any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of its use of the Services (excluding any Third Party Software or Equipment) in accordance with these Conditions and this Contract.
- 19.5 If an injunction is granted as a result of a claim or action within the scope of clause 19.4 and that injunction prevents the Customer's use of the Company Software, the Company shall, if requested to do so by the Customer and at the Company's option and expense and provided that the Customer is not in breach of clause 19.9 either:
 - 19.5.1 obtain for the Customer the right to continue using the Company Software in accordance with this Contract free from any liability for such infringement; or
 - 19.5.2 modify, substitute or replace the Company Software or any part of it so as to avoid the infringement, without materially adversely limiting the functionality of the Company Software; or
 - 19.5.3 refund to the Customer the part of the Charges that directly relates to the Company Software (or the part of it) that the Customer is unable to use as a result of the claim or action.
- 19.6 Clauses 19.4 and 19.5 shall not apply to the extent that any claim or action is caused or exacerbated by:
 - 19.6.1 any modification to the Products or Services made by any person other than the Company;
 - 19.6.2 any breach of this Contract by the Customer;



- 19.6.3 any use of the Products or Services after commencement of the claim or action or (if earlier) the Customer or an End User becoming aware of the alleged infringement;
- 19.6.4 use of the Products and/or Services in combination with other hardware and software not supplied by the Company other than a combination with hardware or software stated in this Contract as being compatible or otherwise approved by the Company as being necessary for the operation of, or use of the Products and/or Services;
- 19.6.5 information, data or programs furnished by the Customer in the course of the supply and maintenance of the Products and/or Services
- 19.6.6 actions taken by the Company at the request or on the instructions of the Customer;
- 19.6.7 failure of the Customer or an End User to use replaced or modified parts of the Products and/or Services provided by the Company in order to avoid such infringement;
- 19.6.8 use of the Products and/or Services in a manner for which it was not designed;
- 19.6.9 any use of the Products and/or Services other than in accordance with the Company's instructions;
- 19.6.10 any breach of Third Party Software licence terms by the Customer or any End User; or
- 19.6.11 any Customer Input Materials or other Intellectual Property Rights made available to the Company by the Customer.
- 19.7 Subject to the provisions of clause 9 (Exclusion and Limitation of Liability), clauses 19.4 and 19.5 state the Company's entire liability arising from an infringement (or alleged infringement) of an Intellectual Property Right of a third party.
- 19.8 The Customer shall obtain and maintain all necessary licences and consents and comply with all Relevant Laws in relation to the use of Customer Input Material by the Company in all cases before the date on which the Services are to start.
- 19.9 As a condition of an indemnity given by the indemnifying party ("**Indemnifying Party**") in this clause 19 the indemnified party ("**Indemnified Party**") shall:
 - 19.9.1 notify the Indemnifying Party promptly of any related claims or legal proceedings or allegation that may give rise to a claim under the indemnity upon becoming aware of the same;
 - 19.9.2 make no admissions relating to any claims or legal proceedings or allegations without the consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed;
 - 19.9.3 not agree any settlement or compromise of such claims or legal proceedings nor make any payment on account of them without the prior written consent of the Indemnifying Party, such consent not to be unreasonably withheld or delayed;
 - 19.9.4 allow the Indemnifying Party to conduct all negotiations and proceedings providing that the Indemnifying Party consults with the Indemnified Party and keeps the Indemnified Party informed with respect to a claim, legal proceedings or an allegation; and
 - 19.9.5 give the Indemnifying Party all reasonable assistance to deal with the matter giving rise to a claim under the indemnity.
- 19.10 Subject to clause 19.9 the Customer shall indemnify the Company and keep the Company indemnified against all losses, damages, reasonable costs or reasonable expenses and other liabilities (including reasonable legal fees) incurred by, awarded against or agreed to be paid by the Company arising from any claim made against the Company for actual or alleged infringement of a third party's Intellectual Property Rights arising out of use by the Company (or any of its suppliers) or the Customer or any End User of the Intellectual Property Rights made available to the Company by the Customer or any End User or used by the Customer or any End User in conjunction with the Services and/or Products.

20 EMPLOYMENT REGULATIONS

- 20.1 The Company and the Customer agree that the Employment Regulations shall not apply to transfer the employment or engagement of any Employee to the Company (or any of its sub-contractors) in connection with this Contract or the termination of all or part of any contract between the Customer and a Contractor or Subcontractor or any other provider of the Services and/or Products.
- 20.2 The Customer agrees to indemnify and keep indemnified the Company, its Contractors and Subcontractors against all liabilities, losses, actions, proceedings, damages, costs (including legal and employment costs), claims, demands and expenses brought or made against or suffered or incurred by the Company or any of its suppliers arising out of or connected with:



- 20.2.1 the transfer or alleged transfer of the employment or engagement of any Employee to the Company or any of its suppliers pursuant to the Employment Regulations, the termination of the employment of such Employee by the Company or its suppliers or otherwise; and
- 20.2.2 the employment or engagement or termination of employment or engagement by the Customer or a Contractor and/ or any Subcontractor of any Employee.
- 20.3 Without prejudice to clause 20.2, if any Employee claims or it is determined that his or her contract of employment or engagement has been transferred to the Company or any of its suppliers pursuant to the Employment Regulations then:
 - 20.3.1 the Company will endeavour to, within 28 (twenty eight) days of becoming aware of that fact, give notice in writing to the Customer;
 - 20.3.2 the Customer may offer employment to such person within 14 (fourteen) days of the notification or take such other steps as it considers appropriate to deal with the matter;
 - 20.3.3 if such offer is accepted (or if the situation has otherwise been resolved by the Customer), the Company shall release the person from his employment; and
 - 20.3.4 if after the 14 (fourteen) day period has elapsed, no such offer of employment has been made or such offer has been made but not accepted, or the situation has not otherwise been resolved, the Company may give notice to terminate the employment of such person and rely on the indemnity at clause 20.2 above.

21 ANTI-BRIBERY

- 21.1 Each party shall, and shall use reasonable endeavours to procure that its officers, employees, agents and any other persons in relation to the provision or receipt of the Products and/or Services for and on behalf of it in connection with this Contract, shall;
 - 21.1.1 comply with all applicable Anti-Bribery Laws;
 - 21.1.2 not offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act;
 - 21.1.3 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including adequate procedures to ensure compliance with the Anti-Bribery Laws and the relevant policies, and will enforce them where appropriate;
 - 21.1.4 not do or omit to do any act or thing that constitutes or may constitute an offence under Anti-Bribery Laws; and
 - 21.1.5 provide the other party with such reasonable assistance as it may require from time to time to enable it to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any Anti-Bribery Laws.
- 21.2 Each party shall promptly report to the other party any request or demand for any financial or other advantage of any kind received in connection with the performance of this Contract by it or by its officers, employees, agents or any other person who performs or receives (as applicable) the Services and/or Products for or on behalf of it in connection with this Contract.

22 GENERAL

- 22.1 Failure to exercise or delay in exercising on the part of either party any right, power or privilege of that party under this Contract shall not in any circumstances operate as a waiver thereof nor shall any single or partial exercise of any right power or privilege in any circumstances preclude any other or further exercise thereof or the exercise of any other right power or privilege. Any waiver of a breach of any of the terms hereof or of any default hereunder shall not be deemed a waiver of any subsequent breach or default and shall not affect the other terms of this Contract.
- 22.2 This Contract (and any non-contractual matters arising out of or in connection with it) shall be governed by and construed in all respects in accordance with English law and the Customer hereby submits for all purposes of and in connection with this Contract to the exclusive jurisdiction of the English Courts (including in relation to non-contractual disputes).
- 22.3 The Customer shall refer any dispute it has with the Company to the Company's complaints procedure at www.dcs.tech (or at such other URL as is notified to the Customer by the Company from time to time). Nothing in this clause shall prevent the Customer or the Company from exercising any rights and remedies that may be available in respect of any breach of the provisions of this Contract.
- 22.4 The parties (each acting reasonably) will attempt to resolve any dispute arising out of or relating to this Contract ("**Dispute**") through negotiations between the respective representatives of the parties having authority to settle the matter.
- 22.5 The parties shall use reasonable endeavours to resolve the Dispute using the following negotiation procedure:



- 22.5.1 where a Dispute first arises either party may serve notice in writing on the other to commence the negotiation procedure;
- 22.5.2 on receipt of a notice under clause 22.5.1 the Company's service delivery manager and an authorised representative of the Customer shall meet to try and resolve the Dispute;
- 22.5.3 if the individuals referred to in clause 22.5.2 are unable to resolve the Dispute within 10 (ten) Business Days the Dispute shall be escalated to a director or other appropriate senior executive as nominated by either party;
- 22.5.4 following escalation of the Dispute to the executives referred to in clause 22.5.3, the executives shall meet as soon as practicable to try to resolve the Dispute.
- 22.6 Nothing in clause 22.5 shall prevent the Customer or the Company from exercising any rights and remedies that may be available at law (including injunctive relief) in respect of any breach of the provisions of these Conditions or this Contract.
- 22.7 Save as expressly provided for in any Specific Conditions, this Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else and no third party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.
- 22.8 Any notice, invoice or other document that may be given by either party under this Contract shall be in writing (except as provided otherwise) sent for the attention of the relevant person, and to the postal address given in an Order Form (or such other postal addressor person as the relevant party may notify to the other party) and shall be delivered personally or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting or if earlier upon receipt and, if deemed receipt under this clause 22.8 is not within Normal Working Hours, at 9.00 am on the first Business Day following delivery. To prove service, it is sufficient to prove that the notice was sent in the case of post, that the envelope containing the notice was properly addressed and posted.
- 22.9 Any director or representative of the Customer who signs this Contract and/or any Variation on behalf of the Customer will be deemed an authorised signatory and thereby the Company shall be entitled to rely on such signatory as binding the Customer to the obligations in this Contract in all respects.
- 22.10 The Customer shall not, without the prior written consent of the Company (which consent shall not be unreasonably withheld or delayed), assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Contract.
- 22.11 Unless otherwise stated in any Specific Conditions or the Order Form, the Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Contract without the consent of the Customer provided that the Company remains responsible for the acts and omissions of such subcontractors in their performance of the Company's obligations under this Contract.
- 22.12 Unless specifically provided otherwise, rights arising under this Contract are cumulative and do not exclude rights provided by law.
- 22.13 Neither party shall, without the prior written consent of the other party, at any time from the Effective Date to the expiry of 6 (six) months after the termination of this Contract, actively solicit or entice away from the other party, or actively employ or attempt to employ (save where the relevant person has responded to a general advertisement for the relevant job vacancy), any person who is, or has been, engaged as an employee or sub-contractor of the other party who was directly associated with the performance or receipt of the Services and/or Products under this Contract. Any consent given by a party in accordance with this clause 22.13 shall be subject to the other party paying a sum equivalent to twenty per cent of the then current annual remuneration of the relevant employee or sub-contractor or, if higher, twenty per cent of the annual remuneration to be paid by that party to that employee or sub-contractor.
- 22.14 If any provision (or part of a provision) of this Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 22.15 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted or modified, that provision will apply with whatever minimum modification is necessary to make it valid, enforceable and legal whilst still giving effect to the commercial intention of the parties.
- 22.16 Save where the context otherwise requires, in this Contract a reference to a "person" shall include a company, body corporate, unincorporated association, state, governmental or statutory body or authority, and/or a partnership, as well as a natural person (as appropriate).
- 22.17 Except with the prior written consent of the other party, neither party shall:
 - 22.17.1 make any public statement about the Products and/or Services or otherwise publicise this Contract or any information relating to it; or



22.17.2 use any trademarks or identifying logos owned or licensed to any member of the other party in any manner.

- 22.18 Nothing in this Contract is to be construed as establishing or implying any partnership or joint venture between the parties, or as appointing any party as the agent or employee of any other party. No party shall hold out any other party as its partner or joint venture partner. Except and to the extent that this Contract expressly states otherwise, no party may incur any expenses or negotiate on behalf of any other party or commit any other party in any way to any person without that other party's prior written consent.
- 22.19 Each party shall do and execute, or arrange and procure for the doing and executing of, any act and/or document reasonably requested of it by any other party to implement and give full effect to the terms of this Contract.
- 22.20 This Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter. Without prejudice to clauses 3.1 and 3.2 and save in the event of fraud or fraudulent misrepresentation, neither party has entered into this Contract in reliance upon and nor shall they have any remedy in respect of, any representation or statement, illustrations, samples or descriptive material (whether made by the other party or any other person) that is not expressly set out in this Contract.
- 22.21 This Contract may be entered into in any number of counterparts and by the parties on separate counterparts, all of which taken together shall constitute one and the same instrument.



Annex - Data processing details

The capitalised terms used in this Annex, have the meanings provided in clause 16.1. The Processing details set out in this Annex are subject to any specific Processing details set out in or otherwise incorporated into the Order Form.

1 Subject Matter of Processing:

For the purposes of the Company performing this Contract.

2 Duration of the processing:

The Processing shall continue for the duration of this Contract and for any period thereafter that the Company continues to Process any Protected Data.

3 Nature and purpose of the processing:

To perform and/or deliver (as applicable) the Services and/or Products as set out in this Contract and as further instructed by the Customer.

4 Type of Personal Data:

Names, telephone numbers, email addresses, addresses of the Data Subjects set out below and any other Personal Data required to be provided to the Company as Protected Data in the performance of this Contract, including without limitation the performance and/or delivery (as applicable) of the Services and/or Products.

5 Categories of Data Subjects:

Employees and customers (being natural persons) of the Customer or the relevant Controller.

SPECIFIC CONDITIONS F1 – ENGINEERING SERVICES (INCLUDING MAINTENANCE)

These Specific Conditions govern the Engineering Services that may be provided by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “**Conditions**”), which shall be deemed to be incorporated into the Contract for the performance of any Engineering Services performed under these Specific Conditions.

The Services set out under the headings “Maintenance Services”, “IMAC Services” and “Deskside Support Services” shall only benefit the Customer if such Services are referred to as being part of the Contract in the Order Form.

1 DEFINITIONS

1.1 Capitalised terms used in these Specific Conditions have the following meanings for the purposes of these Specific Conditions only;

“Additional Charges”	means all Charges due to the Company by the Customer that are in addition to the Support Charge in consideration of the provision of the Additional Services;
“Additional Services”	means those additional services to be provided by the Company, including but not limited to those provided in accordance with the procedure for requesting such services as set out in paragraph 8.1 for any IMAC Services, together with any Excepted Matters and any other additional services provided by the Company in accordance with these Specific Conditions;
“Beyond Economic Repair”	means where, in the Company’s opinion (acting reasonably), the estimated cost of Fixing the Supported Equipment exceeds 55% of the market value of replacing that Supported Equipment;
“Commencement Date”	means as defined in paragraph 2;
“Deskside Support Services”	means the services set out in paragraph 9;
“Drivers”	means software that converts data, for example to be printed or scanned, to the form specific to the relevant Supported Equipment to allow applications to connect to the Supported Equipment to perform a function such as printing or scanning, without being aware of the technical details of the relevant hardware model of the Supported Equipment;
“End User Service Desk”	means either an End User service desk provided by the Company under Specific Conditions K1 – End User Service Desk Services or an End User service desk under the control of the Customer that is either the Customer’s internal End User service desk or a nominated third party End User service desk;
“Engineering Services”	means the Maintenance Services, IMAC Services, Deskside Support Services, Tech Hub Services and Additional Services;
“Excepted Matters”	has the meaning set out in paragraph 5.1;
“Fault”	means any Hardware Fault and/or any Software Fault;
“Firmware”	means data and/or software that resides in the Supported Equipment’s read-only memory (ROM) or other less transient part of the Supported Equipment’s memory than a hard or floppy disk and provides instruction on how that Supported Equipment should operate;
“Fix”	means in respect of carrying out such repairs, replacement of parts, lubrication and/or adjustment as appropriate to remedy the Fault so that the Supported Equipment and/or Supported Software is returned to working order, which will include any Temporary Fix;
“Hardware Fault”	means any fault, issue or matter relating to any Supported Equipment excluding Software Faults;
“IMAC Project”	means as defined in paragraph 8.6.1;

"IMAC Services"	mean installations, moves, additions and/or changes to Supported Equipment and/or other Customer equipment, such services to be performed by the Company in accordance with paragraph 8 following a Service Request;
"Incident Notification"	means any notification of a Fault made by the Customer in accordance with paragraph 4.8;
"Incident Management Process"	means the Company's process for accepting and dealing with Incident Notifications as provided in accordance with the Specific Conditions X3 for Standard Operational Services;
"Loan Equipment"	means as defined in paragraph 7.1;
"Maintenance Services"	means the Services set out in paragraph 4 of these Specific Conditions;
"Maintenance Services Tier"	means the applicable tier of Maintenance Services to be applied to a particular item of Supported Equipment and/or Supported Software as set out in the Order Form;
"Rate Card"	means the relevant rate card for the Support Charges and Additional Charges as set out or referred to in the Order Form;
"Request Fulfilment Process"	means the Company's process for accepting and dealing with Service Requests as provided in accordance with the Specific Conditions X3 for Standard Operational Services;
"Response Time to Customer Premises or Site"	means as identified in the Order Form or, if none are stated, in accordance with paragraph 15.1;
"Service Desk"	means the service desk provided by the Company to act as the point of contact for the Customer's Representatives;
"Service Request"	means any request for IMAC Services made by the Customer in accordance with the Request Fulfilment Process;
"Smart Hands"	means a support engineer able to follow practical instructions (where required) from the Company's technical personnel who are guiding the engineer remotely to implement a resolution;
"Software Fault"	means any fault or issue of any Supported Software;
"Statement of Works"	means a written document, signed and agreed by both parties to identify the IMAC Project works and services required by the Customer and to be delivered by the Company, which the Customer will use to request IMAC Project services from the Company pursuant to this Contract;
"Support Charge"	means the recurring Charges due to the Company by the Customer in consideration of the provision of the Maintenance Services, as set out in the Order Form;
"Support Hours"	means the times or hours when the Maintenance Services are available to the Customer, as stated in the Order Form, or if no support hours are stated, the applicable hours and days set out in Table 1 of paragraph 15.1;
"Supported Equipment"	means only such items of hardware, equipment and assets that are expressly and individually listed in the Order Form as Supported Equipment;
"Supported Software"	means all Firmware and Drivers in any Supported Equipment together with any other software expressly listed in the Order Form as Supported Software;
"Tech Hub"	means a drop in centre known as the 'Tech Hub' at those Customer Premises identified in the Order Form, which will be staffed by the Tech Hub Engineer providing the Tech Hub Services during the agreed Tech Hub Hours;
"Tech Hub Engineer"	means the Company Personnel appointed by the Company to provide the Tech Hub Services;
"Tech Hub Hours"	means the agreed days and times and/or frequencies as identified in the Order Form for the Company to provide the Tech Hub Services;

“Tech Hub Services”	means the Services provided by the Company to the Customer’s End Users at the Tech Hub in accordance with paragraph 10;
“Technical Diagnosis”	means the act of seeking to identify the cause of an Incident by investigating and analysing its signs and symptoms, with the objective of determining the reason for the Incident and identifying the steps required to restore the Relevant Service or otherwise resolve the Incident;
“Temporary Fix”	means carrying out such temporary repairs, replacement of parts or adjustments and/or providing Loan Equipment, where applicable, to temporarily remedy the Fault pending the arrival of relevant spare parts and/or replacement equipment to enable a Fix, provided always that such Supported Equipment (or Loan Equipment) is installed and operational; and
“Username”	means any username or logon identification used by the Company Personnel to access to a Customer’s computer, network, or online service as required to deliver the Engineering Services.

- 1.2 All other capitalised terms used in these Specific Conditions that are not defined in paragraph 1.1 have the meanings stated in the Conditions.

2 SERVICE COMMENCEMENT DATE

- 2.1 The Commencement Date of the Engineering Services is the date specified as such in the Order Form or, if no date is specified the Effective Date.

3 MINIMUM TERM AND DURATION

- 3.1 The Minimum Term for Engineering Services is as set out in the Order Form, or if no Minimum Term is specified, twelve (12) calendar months from the Commencement Date.
- 3.2 Subject to earlier termination in accordance with the terms of this Contract, this Contract will continue for the Minimum Term. Upon the expiry of the Minimum Term, this Contract will renew automatically for a further period of twelve months (a “**Rollover Period**”), unless terminated by the Customer giving not less than 90 (ninety) days’ notice in writing to the Company prior to the end of the Minimum Term.
- 3.3 At the end of a Rollover Period (and each subsequent Rollover Period), this Contract will renew automatically for a further Rollover Period, unless terminated by the Customer giving not less than 90 (ninety) days’ notice in writing to the Company prior to the end of the then current Rollover Period.

4 MAINTENANCE SERVICES

- 4.1 In respect of the Maintenance Services, the Customer warrants that, as at the Commencement Date, the Supported Equipment is functioning normally and free from recurring faults except to the extent that such faults are disclosed in writing to the Company and accepted by the Company in writing.
- 4.2 If, immediately prior to the Commencement Date, the Supported Equipment:
- 4.2.1 is not already maintained by the Company; or
 - 4.2.2 was not installed by the Company within the last 12 months; or
 - 4.2.3 is still within the scope of an express warranty given by the Vendor;
- then the Company may at its discretion inspect the Supported Equipment.
- 4.3 If following the inspection under paragraph 4.2, any Supported Equipment or any part thereof is not functioning normally, free from recurring faults and otherwise suitable for inclusion within the Maintenance Services, as notified by the Company to the Customer in writing following such inspection, the Customer shall at its option either:
- 4.3.1 withdraw that piece of Supported Equipment from the Agreement; or
 - 4.3.2 permit the Company to undertake such repair work as may be necessary to put the Supported Equipment back into good working order;
- and the Customer will pay for such inspection and/or repair as an Additional Service in accordance with paragraph 14.
- 4.4 Unless and until the Customer has notified its choice of option to the Company under paragraph 4.3, the Company will have no obligation to provide any Maintenance Services in respect of that notified Supported Equipment. If the Customer has not

notified the Company within 20 (twenty) Business Days of the Company's notification under paragraph 4.3, the Company may by notice in writing to the Customer cancel the Maintenance Services for the affected Supported Equipment without liability and the Support Charges will be recalculated accordingly.

- 4.5 In consideration of and subject to the payment of the Support Charge by the Customer, the Company will provide the Maintenance Services to the Customer in respect of the Supported Equipment in accordance with these Specific Conditions.
- 4.6 Unless it is otherwise stated in an Order Form that a different level of service (in terms of response times and hours of attendance) will apply, the Company will use its reasonable endeavours to provide the Maintenance Services from the Commencement Date during the Support Hours. Any time period stated in respect of the Company's obligations under this Contract is not guaranteed nor capable of being deemed to be of the essence of this Contract.
- 4.7 Subject to spare part availability and subject to the Excepted Matters, the Company will provide all necessary spare parts that are in the reasonable opinion of the Company required to Fix the Supported Equipment. All replaced parts installed into the Supported Equipment will become the property of the Customer upon installation, provided that the Support Charges and any Additional Charges (if relevant) have been received by the Company.
- 4.8 The Customer may, through its authorised Customer Representatives only, any time after becoming aware of a Fault in respect of the Supported Equipment or Supported Software report such Faults to the Service Desk (an "**Incident Notification**") in accordance with the Incident Management Process.
- 4.9 Once the Technical Diagnosis is completed, the Company will:
 - 4.9.1 where the Company is unable to Fix and/or diagnose the Fault by telephone and where attendance at Customer Premises is included in the Customer's chosen Maintenance Services Tier, as soon as reasonably practicable arrive at the Customer Premises to attend the Equipment;
 - 4.9.2 where the Company is unable to Fix the Fault remotely and where attendance at Customer Premises is not included in the Customer's chosen Maintenance Services Tier, send a replacement part to the Customer's Premises.
- 4.10 The Company may attempt to Fix certain Faults remotely, where appropriate and applicable.
- 4.11 Subject to any other rights that the Customer may have under any other contract with the Company for the original supply or installation of the Supported Equipment, which may require repair or replacement under warranty, the Company will be entitled to replace any faulty or defective part of any Supported Equipment with either new or serviceable reconditioned parts at its discretion.
- 4.12 The Company will provide and/or will request repairs and/or replacement parts for the Supported Equipment by liaising directly with third parties as required to Fix the Supported Equipment.
- 4.13 As soon as reasonably possible following the receipt of the Incident Notification, the Company will notify the Customer of the estimated time of arrival for the Company Personnel at the relevant Customer Premises or Site.
- 4.14 Providing such items have been made available to the Company by the Customer, the Company will ensure that any Company Personnel responding to an Incident Notification will have the relevant security clearance, card access and gate keys necessary to gain access to the Customer Premises for the purposes of providing the Maintenance Services. If the Company Personnel cannot gain entry to the relevant Customer Premises or Site, paragraph 4.19 will apply.
- 4.15 The Customer can cancel any Incident Notification at any time by giving notice to the Company. Such Incident Notification will be deemed to be Fixed and closed at the point of cancellation for the purposes of determining Company's achievement or otherwise of the Service Levels. Any cancelled Incident Notification may be charged to the Customer as an Excepted Matter in accordance with the Rate Card.
- 4.16 The Company will ensure that on arrival at the Customer Premises, the Company Personnel notify the Customer that they have arrived. The time of arrival recorded by the Company will be recorded as the actual Response Time to Customer Premises or Site for the purposes of calculating whether the applicable Response Time to Customer Premises or Site Service Level has been achieved in accordance with paragraph 15.1.
- 4.17 The Company will update the Customer as soon as reasonably possible following any material change to the estimated time of arrival of Company Personnel at any Customer Premises or Site.
- 4.18 Subject always to the Excepted Matters, the Company will use its reasonable endeavours to Fix any Fault, which will include the Company Personnel using their own skill and judgement to Fix a Fault where the actual Fault diagnosed upon arrival at the Supported Equipment does not match information provided by the Customer as part of the Incident Notification.
- 4.19 Where any Company Personnel are unreasonably refused access to any Customer Premises or Site by the Customer or are otherwise unable to access the Customer Premises or Site, the Company will notify the Customer of the situation together with sufficient details to allow the parties to determine the cause and action required. The Company Personnel will

remain at the Customer Premises or Site for a further period of fifteen (15) minutes or such time as is agreed with the Customer (whichever is the shorter). The Company will be entitled to charge for this period of waiting time in accordance with the Rate Card. In circumstances where the Company does not gain access to the Customer Premises or Site and/or Supported Equipment at all, the Company will be entitled to charge for the abortive visit in accordance with the Company's Rate Card and the Fault will be deemed to be Fixed and closed within any relevant Service Level.

- 4.20 If the Company Personnel reasonably require assistance or support from the Customer, the Company will contact the Customer and the Customer will provide such assistance that the Company Personnel may reasonably require. The Customer will not charge the Company for any such assistance or other support received from the Customer in relation to any Fault.
- 4.21 Subject to the Customer having paid for the applicable Vendor's software updates and patches and made such updates and patches available to the Company, where a Fault is determined to have been caused by a Software Fault, the Company will provide remote support of the Supported Software running on the Supported Equipment together with any other Supported Software listed as such in the Order Form. In response to a relevant Incident Notification, this includes applying patches to the Firmware or other Supported Software to address security vulnerability, stability, performance and/or functionality issues. Any patches or updates will be agreed with the Customer before being applied.

5 EXCEPTED MATTERS

- 5.1 Unless expressly provided for under the Order Form as Additional Services and except where agreed by the Company to be provided as Additional Services pursuant to paragraph 14, the Maintenance Services under this Contract will not include the following (the "**Excepted Matters**"):
- 5.1.1 maintaining or repairing any anything not individually listed as Supported Equipment (whether or not it is interconnected with or connected to the Supported Equipment), including but not limited to any electrical works, cabling or extension wiring that is external to the Supported Equipment;
 - 5.1.2 unless otherwise expressly agreed in the Order Form, Fixing any Faults in any Supported Equipment that is not located at those Customer Premises and/or Sites listed in the Order Form as being subject to the Maintenance Services;
 - 5.1.3 repairing or resolving any defect and/or error in any software (that is not Supported Software) used upon or in association with the Supported Equipment, including any such defect or fault as a consequence of modifications to and/or customisation of any Supported Equipment or Supported Software in accordance with a Service Request or necessary to Fix a Fault in response to an Incident Notification;
 - 5.1.4 programming, reprogramming, configuration or reconfiguration of the Supported Equipment to provide improved or modified functionality, service or facilities;
 - 5.1.5 Fixing any Faults in Supported Equipment caused by telephone area code changes or changes in Carriers;
 - 5.1.6 repairing any Fault or replacing any Supported Equipment as a result of any act of God or other force majeure, including but not limited to flood, water damage or sewage contamination, lightning, fire, explosion, acts of public enemies, terrorist attack, nuclear chemical or biological contamination, accidental damage, vandalism or act of sabotage, or theft or other loss;
 - 5.1.7 repairing any defects in the external cosmetic finishes of any Supported Equipment;
 - 5.1.8 Fixing any Fault arising as a result of:
 - (a) accidental damage, neglect or misuse by the Customer (including, but not limited to failure to follow any relevant requirements, recommendations and/or instructions supplied by the Company or the Vendor and/or any use of the Supported Equipment or Supported Software by the Customer for a purpose or in an operating environment other than for which it was designed);
 - (b) any defect or error in any software used on or in association with the Supported Equipment, other than Supported Software;
 - (c) telephone line conditions, failure or fluctuations in electrical power supply and/or failure of air conditioning plant or other unsatisfactory environmental conditions for the Supported Equipment;
 - (d) any repair, upgrade, maintenance or modification to the Supported Equipment (including but not limited to the connection or installation of unapproved accessories, attachments, software or other devices) by any person other than the Company;
 - 5.1.9 relocation or transportation of the Supported Equipment, except where it has been performed by or under the direction of the Company;

- 5.1.10 the merger or integration of Supported Software (in whole or in part) with any other software by any person other than the Company;
- 5.1.11 Fixing any Hardware Fault where the such item of Supported Equipment is Beyond Economic Repair or will become unsupportable due to a shortage of skills and/or spare parts;
- 5.1.12 unless otherwise expressly provided in the Order Form or otherwise in this Contract, supplying, maintaining and/or replacing any ancillary or consumable items including but not limited to:
 - (a) aerals and aerial systems;
 - (b) cabinets;
 - (c) batteries including 'UPS' batteries;
 - (d) cassettes and magnetic media;
 - (e) portable computer (laptop) screens;
 - (f) fuses;
 - (g) cathode ray tubes;
 - (h) printer character bands and/or print heads;
 - (i) toner cartridges and kits, image drums (EP cartridges), fuser units, transfer belts, waste toner bottles and ribbons;
 - (j) developer units;
 - (k) Vendor-recommended cleaning, service or maintenance kits or routine activities;
 - (l) laser printer drum kits and/or user maintenance kits; and
 - (m) any other consumables defined as such by the relevant Vendor;
- 5.1.13 restoring, uploading or reconstituting any data /or software applications relating to the Supported Equipment;
- 5.1.14 Fixing any Faults in Supported Equipment that appear in the relevant Order Form with an inaccurate or misleading description or specification;
- 5.1.15 in respect of Supported Software (including where the Supported Equipment includes Supported Software) the Customer's failure to install any updates or enhancements that have been made available to the Customer by the Company or the Vendor;
- 5.1.16 any upgrades to Supported Equipment that are necessary to correct stability issues;
- 5.1.17 any modification or alteration of or attachment to the Supported Equipment or removal of the same and/or any upgrading or replacement of Supported Equipment that is not faulty or the supply or installation of new equipment;
- 5.1.18 routine and/or proactive maintenance services and/or maintenance visits;
- 5.1.19 in respect of any new items of Supported Equipment that are added to this Contract, any Faults in respect of such new item of Supported Equipment, where that new item of Supported Equipment has not been deployed and in normal use and operation without error for 7 (seven) days or more following such item of Supported Equipment being added to this Contract; and
- 5.1.20 attendance by Company Personnel at the Customer Premises, where the Service Level "Bronze" or "Bronze+" has been chosen by the Customer as stated in the Order Form, and which otherwise includes remote Technical Diagnosis and parts only being sent to the applicable Customer Premises or Site in accordance with paragraph 15.1.

6 DISCONTINUED MAINTENANCE SERVICES

- 6.1 Without prejudice to any other right of suspension or termination of any Maintenance Services under this Contract, the Company will have the right to discontinue the Maintenance Services in respect of any item of Supported Equipment (without liability to the Customer) in the event that:
 - 6.1.1 the Vendor of the Supported Equipment has ceased to supply or manufacture such Supported Equipment or relevant spare parts for such Supported Equipment; and/or

- 6.1.2 the Company is of the reasonable opinion that an item of Supported Equipment is at the end of its normal, useful working life or for which parts are no longer reasonably, commercially available or is Beyond Economic Repair or will otherwise become unsupportable;

provided that the Company notifies the Customer as soon as reasonably practical after it is aware of any such event provided for in paragraph 6.1.1 and/or 6.1.2 and will either (upon agreement with the Customer): (i) terminate the Maintenance Services in respect of the affected Supported Equipment and remove the Supported Equipment from the applicable list of Supported Equipment under this Contract and in doing so will provide a refund of the pro rata proportion of the Support Charges for the removed Supported Equipment relating to the period following suspension and/or termination; or (ii) replace or upgrade the affected Supported Equipment as an Additional Service, at the Customer's cost.

7 TEMPORARY FIX

- 7.1 Where the Company has agreed to provide loan equipment for the purposes of a Temporary Fix ("**Loan Equipment**"), such Loan Equipment will remain the property of the Company.
- 7.2 The Customer will:
- 7.2.1 not modify the Loan Equipment without the prior written consent of the Company;
 - 7.2.2 only use in conjunction with the Loan Equipment those accessories, attachments or items of additional equipment that have been expressly approved by the Company;
 - 7.2.3 not remove the Loan Equipment from the Customer Premises without the prior written consent of the Company;
 - 7.2.4 not attempt to adjust, or repair the Loan Equipment nor authorise or permit anyone other than the Company or its agents to do so without the prior-written consent of the Company;
 - 7.2.5 notify the Company promptly if the Loan Equipment requires maintenance or is not operating correctly;
 - 7.2.6 not sell, assign, sub-let, pledge or part with possession or control of or otherwise deal with the Loan Equipment or any interest therein nor purport to do any of such things nor create or allow to be created any mortgage, charge, lien or other encumbrance on the Loan Equipment;
 - 7.2.7 keep the Loan Equipment free from distress, execution or any other legal process and will immediately give to the Company notice of any claim or threatened claim to the Loan Equipment by any third party;
 - 7.2.8 provide adequate and suitable environment, space and security to house the Loan Equipment; and
 - 7.2.9 ensure the availability of constant power supply to the Loan Equipment.

8 IMAC SERVICES

- 8.1 The Customer may, through its authorised Customer Representatives only, any time during the Term of this Contract request an IMAC Service in accordance with the Request Fulfilment Process.
- 8.2 Where the Company in its sole discretion agrees to comply with a request for IMAC Services, it will be rendered against payment of Additional Charges for the relevant period.
- 8.3 **Installations**
- 8.3.1 The following will be included as part of the standard IMAC Service for new installations of the relevant equipment:
- (a) the Company will render the installation services at an existing Customer Premises or Site;
 - (b) the unpacking of the equipment;
 - (c) the removal of all packaging material to an onsite location designated by the Customer for disposal by the Customer;
 - (d) the assembling, installation and physical connection of the equipment to the Customer's network;
 - (e) testing the connectivity and operability of the equipment;
 - (f) the de-installation of the old equipment or other equipment being replaced, to an onsite location designated by the Customer for disposal by the Customer (unless otherwise agreed).
- 8.4 **Moves**
- 8.4.1 The following will be included as part of the standard IMAC Service for moving equipment:

- (a) a move consists of a single disconnection and de-installation of the equipment at a Customer Premises or Site
and the reinstallation and reconnection of the same equipment within the same Customer Premises or Site;
and
- (b) testing the connectivity and operability of the relevant equipment following a move.

8.5 Additions and Changes

8.5.1 The following will be included as part of the standard IMAC Service for additions to and changes to equipment:

- (a) any change or modification as stipulated in a Service Request to an item of equipment; and
- (b) the testing of the modified equipment.

8.6 IMAC Projects

8.6.1 Requests for IMAC Services that involve more than 5 (five) (or such other amount as may be agreed in a Statement of Work) items of equipment will be treated as a project (an **"IMAC Project"**).

8.6.2 Once the Company has agreed the IMAC Project, the Customer will need to provide to the Company with a completed and signed Statement of Works and the Company will only be obliged to proceed with an IMAC Project once it has received the required signed and completed Statement of Works.

9 DESKSIDE SUPPORT SERVICES

9.1 The Company may provide the following Deskside Support Services to the Customer where Deskside Support Services are identified within the Order Form, at the Customer Premises:

- 9.1.1 personal computer re-imaging (from scripts and manual re-installations) as appropriate;
- 9.1.2 software restoration (from scripts & manual re-installations) as appropriate; and
- 9.1.3 troubleshooting;

in each case remotely where appropriate or through attendance at the Customer Premises by a Smart Hands engineer.

9.2 In conducting the Deskside Support Services, the Company will work with Customer's Representatives to test software and documentation associated with new releases and hardware. This activity shall be requested by the Customer through a Service Request.

9.3 For the avoidance of doubt, software specifications will be set by the Customer and software licencing will be managed by the Customer's software licencing team.

9.4 Deskside Services will only be available on:

- 9.4.1 desktop personal computers;
- 9.4.2 laptops;
- 9.4.3 printers; and
- 9.4.4 in respect of thin client software (being where the server handles the bulk of the workload for a software application that runs on a personal computer or workstation and relies on a server to perform some operations);

and for the avoidance of doubt deskside support services will not therefore apply to thick client software (being where software is installed on the personal computer or workstation and the personal computer or workstation handles the bulk of the workload and implements its own features locally).

10 TECH HUB SERVICES

10.1 Where identified in the Order Form that the Company will provide Tech Hub Services to the Customer, the Company will provide a Tech Hub, where End Users can raise Incidents and/or Service Requests in person on an item of Supported Equipment and/or Supported Software. Issues raised by End Users at the Tech Hub that are out of the scope of the Engineering Services will be directed to the Customer and/or assisting the End User in logging a ticket. The Tech Hub Engineers will record all Incidents and Service Requests raised by the End User at the Tech Hub with the relevant End User Service Desk.

10.2 The Customer will make available an appropriate area for the Tech Hub and any appropriate facilities and/or equipment reasonably required by the Company Personnel at the Customer Premises free of charge to the Company, for the

Company's use in providing the Tech Hub Services. The Customer will provide licensed copies of the Supported Software to the Company Personnel to enable them to perform the Tech Hub Services.

- 10.3 As part of the Tech Hub Services, the Company Personnel may provide the following activities for an End User at the Tech Hub:
- 10.3.1 In relation to the Supported Equipment and/or Supported Software, an End User may raise a ticket via the End User Service Desk or by attending the Tech Hub, which may then be followed up by a deskside visit to resolve the issue at an appointed time within the Tech Hub Hours.
 - 10.3.2 The Tech Hub Engineer may perform a re-imaging of a laptop with a standard build at the Tech Hub where requested by an End User and where such image is made readily available by the Customer.
 - 10.3.3 The Tech Hub Engineer may provide a troubleshooting exercise in order to resolve any issue in respect of the Supported Software. The Tech Hub Engineer may also provide an 'on the spot' demonstration of the functionality of any Microsoft Office software to answer such queries including but not limited to 'How do I...?.'
 - 10.3.4 In relation to the Supported Equipment and/or Supported Software, an End User may be able to book an appointment for the installation of new Supported Software, configuration and/or to identify any problems with the automatic updates to any Supported Software at the End User's desk, or where the fault is related to a laptop, the Tech Hub Engineer may agree a time with the End User to collect the laptop at the Tech Hub once such activity has been performed.
 - 10.3.5 The Tech Hub Engineer may also organise an informal training session at the Tech Hub during the Tech Hub Hours with one or more End Users where the Customer has identified a general need for training.
- 10.4 If, for any reason, any Company Personnel engaged in the Tech Hub Services become unavailable for the performance of the Tech Hub Services, the Company will as soon as reasonably practicable substitute a suitably skilled and experienced replacement.
- 10.5 Any addition, modification or adjustment to the scope of the Tech Hub Services agreed in the Order Form and being provided by the Company must be agreed in writing between the parties.
- 10.6 The parties agree that nothing in this Contract shall render the Tech Hub Engineer an employee, worker, agent or partner of the Customer and the parties agree that this is a contract for services and not of employment or secondment of the Company Personnel.
- 10.7 The Customer will procure that the Customer Representatives will reasonably co-operate with the Tech Hub Engineer to enable the Company to provide the Tech Hub Services.

11 CUSTOMER OBLIGATIONS

- 11.1 The Customer will not relocate any Supported Equipment within the Customer Premises or Site, nor remove the Supported Equipment from the Customer Premises or Site where it is located as at the Commencement Date without the prior written consent of the Company, such consent not to be unreasonably withheld. Where the Company consents to such relocation, the Company may also provide the relocation and installation service, as an IMAC Project, the cost of which would be paid by the Customer as an Additional Service in accordance with paragraph 14.
- 11.2 The Customer will:
- 11.2.1 ensure that, at the Commencement Date, the Supported Equipment is fully functional and free from recurring faults except to the extent that such faults are disclosed in writing to the Company and accepted by the Company in writing prior to the Commencement Date;
 - 11.2.2 use and/or operate the Supported Equipment and any removable media in a normal and proper manner and at all times in accordance with the Vendor's and/or the Company's instructions, recommendations and/or requirements;
 - 11.2.3 carry out appropriate routine maintenance of the Supported Equipment in accordance with good practice and, where applicable, the Vendor's recommendations;
 - 11.2.4 only use consumables, media and storage devices of a type approved by the Vendor;
 - 11.2.5 where the Supported Equipment is under a Vendor's warranty, take all steps, measures and meet all requirements (including the environmental conditions) contained in the Vendor's warranty documents and/or operating instructions and Vendor's written recommendations supplied with such Supported Equipment;
 - 11.2.6 where the Supported Equipment is located at Customer Premises (or any other Site that is not staffed by Company Personnel or otherwise under the control of the Company):

- (a) provide reasonable on-site 'remote hands' assistance, including but not limited to power cycling the Supported Equipment; assisting with troubleshooting and diagnosing issues including, providing sample output and other diagnostic information; carrying out minor maintenance adjustments suggested by the Company, including but not limited to minor programming changes; and replacing certain spare parts, such as handsets including any usual stock spare parts that are available at the relevant Customer Premises or relayed by the Company by courier or post;
 - (b) ensure that the Supported Equipment is at all times used and operated in a suitable operating environment, including, where applicable, ensuring that Supported Equipment is housed in an appropriately secure, well-ventilated cabinet with sufficient environmental control to maintain both temperature and moisture in accordance with the Vendor's operating instructions, recommendations and requirements;
 - (c) ensure the power supply to the Supported Equipment is protected to maintain continuous supply and prevent spikes and losses of power;
 - (d) make Supported Equipment (or other relevant equipment, as applicable) accessible to the Company and if the Company reasonably requests it, allow the Company to inspect the Supported Equipment as soon as possible following the Company's request;
- 11.2.7 appoint at least one Customer Representative, who will be appropriately experienced and/or trained in the use of the Supported Equipment. The Customer will ensure that such principal operator is available to carry out reasonable instructions and to liaise on Engineering Services matters with the Company;
- 11.2.8 not (and shall not employ or permit a third party to) make any alterations or adjustments to the programming or physical structure of the Supported Equipment or to the Supported Software without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed); and
- 11.2.9 where applicable and unless agreed to be provided by the Company under this Contract or otherwise, provide such remote access through secure connectivity from the Company's management systems to the Supported Equipment as required to enable remote configuration and/or management of the Supported Equipment and Supported Software by the Company, and maintain responsibility for any associated third party charges.
- 11.3 It is the Customer's sole responsibility to take adequate and regular backup copies of data and operating and application software held on the Supported Equipment in order that they may be restored in the event of corruption or other loss howsoever occasioned (including where caused by the act or omission of the Company) and to restore such data, operating and application software in the event of corruption or loss, following an Incident or delivery of an IMAC Service, unless otherwise expressly agreed in this Contract or in a relevant Service Request or Statement of Works.
- 11.4 The Customer will enable all relevant logons or passwords required for Company Personnel (who should have their own logons). The Customer will not change or attempt to change a Username without the Company's written consent (not to be unreasonably withheld or delayed).
- 11.5 Where the Company is to install any new equipment as part of the IMAC Service, the Customer shall at its own expense and prior to the performance of such Services:
- 11.5.1 obtain all necessary consent(s) for the installation and use of the equipment, including consent for any necessary alterations to buildings;
 - 11.5.2 ensure that any floor loading limits will not be exceeded;
 - 11.5.3 provide suitable accommodation, foundations and environment for the equipment, including all necessary structural alterations, to permit installation, trunking, conduits and cable trays in accordance with all applicable installation standards unless such services are specifically contracted for under this Contract; and
 - 11.5.4 provide electric power required for the installation, operation, test and maintenance of the equipment.

12 EXCLUSIONS FROM ENGINEERING SERVICES

- 12.1 The following are excluded from the Engineering Services:
- 12.1.1 a dedicated helpdesk and/or, save as set out in paragraph 10, first line support of End Users;
 - 12.1.2 repairing or replacing any Supported Equipment that cannot be fixed due to the failure of any other software or the system (not being Supported Equipment) without such unsupported software or system being repaired, or which could be fixed, but would fail again unless the unsupported software or system is repaired by the relevant third party;

- 12.1.3 unless otherwise expressly provided in the Order Form or otherwise in this Contract, repairing, maintaining or replacing of any Supported Equipment that is at the end of its normal, useful working life or for which parts are no longer reasonably, commercially available;
- 12.1.4 fixing any Software Fault for which a patch, fix or update is required from the relevant Vendor but has not yet been made available by the applicable Vendor;
- 12.1.5 PAT testing;
- 12.1.6 Apple hardware support;
- 12.1.7 audio/video equipment;
- 12.1.8 personal broadband equipment such as routers and hubs;
- 12.1.9 assistive technology hardware break-fix; and
- 12.1.10 work required due to intermittent keyboard faults.
- 12.2 The Company is not responsible for any defect in design, manufacture, installation or performance of the Supported Equipment, provided that where the Company was responsible for the original design, supply and/or installation of such Supported Equipment, its responsibilities in that regard will be dealt with under and in accordance with the relevant contract for such design, supply and/or installation.
- 12.3 The Customer is not entitled to request any Incident Notification or Service Request (and Company shall not be obliged to provide Engineering Services or Additional Services including any IMAC Services) if the relevant location is:
 - 12.3.1 outside the United Kingdom; or
 - 12.3.2 within the United Kingdom and in:
 - (a) the Highlands (area North and West of a line between Inverness and Fort William and West of a line between Dunoon and Fort William) and Islands of Scotland;
 - (b) West Cornwall (being the area west of Newquay and Truro); or
 - (c) the Isle of Wight, Isle of Man, Orkneys, Shetlands, Outer and Inner Hebrides, Northern Ireland, Channel Islands, Isles of Scilly.
- 12.4 Unless expressly agreed in writing to the contrary, the Company shall not be liable to perform any activities to address issues experienced by any or all End Users caused to any extent by a virus, malware or cyber-attack and nor shall the Company be liable to perform any activities to restore data or to advise in respect of data security processes, systems or measures.

13 CHARGES AND PAYMENT

- 13.1 The Support Charges for the Maintenance Services are as identified in the Order Form.
- 13.2 Additional Services will be calculated in accordance with the Rate Card for Additional Services as set out in the Order Form.
- 13.3 The Additional Charges for IMAC Services (excluding IMAC Projects) will be calculated in, accordance with the Rate Card for IMAC Services as set out or referred to in the Order Form or as otherwise provided in the Order Form.
- 13.4 The Additional Charges for IMAC Projects will be as agreed by the parties and set out in the relevant Statement of Works for the relevant IMAC Project.
- 13.5 The Additional Charges for Deskside Support Services will be as set out or referred to in the Order Form.
- 13.6 Deskside Support Services Charges will be invoiced annually in advance, unless otherwise stated in the Order Form, and any Additional Charges will be invoiced monthly in arrears.
- 13.7 Support Charges will be invoiced annually in advance, unless otherwise stated in the Order Form, and any Additional Charges will be invoiced monthly in arrears.
- 13.8 Unless otherwise stated in an Order Form, the Customer will pay the Support Charge to the Company in advance of the relevant period as set out in the Order Form and will pay any Additional Charges monthly in arrears in accordance with paragraph 14.

14 ADDITIONAL SERVICES

- 14.1 The Company may, in its sole and absolute discretion, use its reasonable endeavours to provide all or any of the Excepted Matters as Additional Services and in doing so, will be entitled to charge the Customer for the same by levying Additional

Charges in accordance with the Rate Card and paragraph 14.4. The Company's performance in relation to responding to and/or otherwise providing such Additional Services in accordance with this paragraph 14.1, will not be counted in relation to its achievement or otherwise of the Service Levels. Such Additional Services will be performed during Normal Working Hours, unless otherwise agreed in writing by the Company.

- 14.2 In relation to equipment that is not Supported Equipment, requests can still be made by the Customer to the Company to attend to and/or resolve any fault, issue, matter or notice in relation to such equipment. The Company will respond to such requests (seeking to act, where practicable, in the spirit and intent of these Specific Conditions), and the Customer will be liable to pay the Company the Additional Charges in accordance with the Rate Card and paragraph 14.4. Notwithstanding any provision to the contrary, such incidents will not benefit from any Service Level measurement and/or performance indicator measurements. The Company's performance in relation to responding to and/or otherwise providing such Additional Services in accordance with this paragraph 14.2, will not be counted in relation to its achievement or otherwise of the Service Levels.
- 14.3 The following will be classed as Additional Services under these Specific Conditions and if undertaken the Company will be entitled to charge the Customer Additional Charges in paragraph accordance with 14.4:
- 14.3.1 if Engineering Services are provided in circumstances where any person who is reasonably skilled and competent in the field of maintaining the appropriate telecommunications or information technology equipment would have judged the Customer's request to have been unnecessary;
 - 14.3.2 if the Customer reports an apparent fault of the Supported Equipment to the Company and upon investigation by the Company the Supported Equipment and/or its Installation is found not to be defective;
 - 14.3.3 where the Company determines that a fault that has been reported to the Company is a fault of the Carrier; and/or
 - 14.3.4 to the extent caused by a breach by the Customer of its obligations in paragraph 11;
 - 14.3.5 any additional costs arising due to Engineering Services being delayed at the Customer's request, physical access issues and/or planned downtime by the Customer;
 - 14.3.6 provision of any data recovery or data security services; and/or
 - 14.3.7 activities undertaken to address issues experienced by any or all End Users caused by a virus, malware or cyber-attack.
- 14.4 Additional Charges will be levied and invoiced by the Company in accordance with the Rate Card as follows:
- 14.4.1 following completion of any Additional Services supplied under paragraphs 14.1, 14.2, 14.3.1, 14.3.4 and/or 14.3.5; or
 - 14.4.2 following completion of the investigation and/or call out in respect of paragraphs 14.3.2 and 14.3.3; and
- such Additional Charges may include (without limitation) a charge for the investigation and/or for any call-out in accordance with the Rate Card for Additional Services and/or for any Supported Equipment sent out to the Customer in any postal exchange (in respect of which the Company reserves the right to make a charge up to the replacement value of the Supported Equipment in question sent out to the Customer).
- 14.5 Unless otherwise stated in the Order Form, Additional Charges will be payable by the Customer within thirty (30) days of the date of the Company's invoice for such Additional Charges.

15 SERVICE LEVELS

15.1 Standard Response Time to Customer Premises or Site Service Levels

The Customer will benefit from the Service Levels as identified in the Order Form or the relevant Statement of Work, or if none are stated in accordance with the Service Levels set out under the column headed "Bronze" in Table 1 in this paragraph 15. The Company will use its reasonable endeavours to arrive at the Customer Premises or Site within the times stated below in Table 1, depending on the Service Level chosen by the Customer as stated in the Order Form, which shall commence from the completion and conclusion of the Technical Diagnosis as notified to the Customer and end once the Company Personnel have arrived at the Customer Premises or Site in accordance with paragraph 4.16.

Table 1 – Response Time to Customer Premises or Site for Maintenance Services

Service Level	BRONZE	BRONZE+	SILVER	SILVER+	GOLD
Support Hours (as applicable to the Days of cover below)	08:00-18:00	24x7	08:00-18:00	08:00-18:00	24x7

Days of cover	Business Days	All	Business Days	Business Days	All
Response Time to Site for replacement parts *	Next Business Day**	4 hours	Next Business Day	4 hours	4 hours
Response Time to Customer Premises or Site for Company Personnel *	Parts only service – no Company Personnel to Customer Premises included	Parts only service – no Company Personnel to Customer Premises included	Next Business Day	4 hours	4 hours

*Note: The calculation of the Response Time to Customer Premises or Site for either parts or Company Personnel starts on the completion of the Technical Diagnosis, as notified to the Customer.

**Note: In order to achieve Next Business Day delivery, cut-off time is 3pm on the day the fault is logged for completion of the Technical Diagnosis.

SPECIFIC CONDITIONS F2 – SERVICE MANAGEMENT

These Specific Conditions govern the Service Management Services that may be provided by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form (including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “**Conditions**”)).

1 DEFINITIONS

1.1 Capitalised terms used in these Specific Conditions shall have the following meanings for the purposes of these Specific Conditions only:

“CSIP”	means as defined in paragraph 8.2;
“Dedicated Service Manager”	means a Service Manager whose working focus will be primarily to the Customer and whose working location will be flexible, as required, to deliver the Service Management to the Customer accordingly;
“Desk Based Service Manager”	means a Service Manager or other Company Personnel whose permanent working location will be at an office or other site of the Company;
“Field Based Service Manager”	means a Service Manager or other Company Personnel who will from time to time visit Customer Premises and whose working location will be flexible, as they may be required to attend other locations from time to time, including but not limited to other sites of the Company or of other customers;
“Reports”	means the relevant Service Management reports to be provided in accordance with paragraph 13;
“Service Management”	means the management of the Services described in these Specific Conditions;
“Service Management Tier”	means the selected level of Service Management stated in the Order Form, which can be Dedicated, Desk Based Foundation, Desk Based Standard, Desk Based Enhanced, Field Based Standard, Field Based Enhanced or Field Based Premium as more particularly described in Table 1 (Service Management Tiers) in paragraph 4.8;
“Service Manager”	means the Company’s service manager responsible for overseeing the delivery of the Services to the Customer, reporting on the Company’s performance, being the principle point of contract for escalation of any quality of service issues and managing the service lifecycle in conjunction with the Company’s operational service delivery teams;
“SIP”	means as defined in paragraph 8.1; and
“Supported Equipment”	has the meaning given in Specific Conditions F1 - Engineering Services.

1.2 All other capitalised terms, which are not defined in paragraph 1.1, shall have the meanings stated in the Conditions.

2 COMMENCEMENT DATE

2.1 The Commencement Date of the Service Management shall be the date specified as such in the Order Form or, if no date is specified, the Effective Date of this Contract.

3 MINIMUM TERM

3.1 The Minimum Term for the Service Management shall be as set out in the Order Form, or if no Minimum Term is specified, twelve (12) calendar months from the Commencement Date.

4 SERVICE MANAGEMENT

4.1 The Company will provide a named Service Manager for the Customer for the Services. The Service Manager may be Dedicated, Desk Based or Field Based as specified in the Order Form. Any addition, modification or adjustment to the type of Service Manager and/or the Service Management Tier agreed in the Order Form for a period longer than 14 days must be agreed in writing between the parties as a Variation to this Contract.

- 4.2 If, for any reason, any named Service Manager will be unavailable for the performance of the Service Management (including but not limited to annual leave, training, promotion, resignation, dismissal, ill health or accident), the Company will as soon as reasonably practicable substitute a suitably experienced replacement.
- 4.3 The Company will not permanently (or for any period of time greater than one (1) month) substitute an alternative or replacement Dedicated Service Manager under this Contract without having first obtained the Customer's approval, such approval not to be unreasonably withheld or delayed.
- 4.4 The Company will provide Service Management to the Service Management Tier specified in the Order Form in accordance with Table 1 (Service Management Tiers) in paragraph 4.8 and in accordance with paragraphs 5, 6 and 7, as applicable.
- 4.5 The Company will organise and hold service review meetings at the frequency set out in Table 1 (Service Management Tiers) on such dates as mutually agreed between the parties. The service review meetings will held be virtually, either as a conference call only or potentially using video conferencing. The Service Manager is not required to attend service review meetings in person, unless the Service Manager is Field Based or Dedicated.
- 4.6 The Company will use its reasonable endeavours to ensure that the Service Manager is available within Normal Working Hours on reasonable notice to provide all such reasonable assistance or information that the Customer may require in relation to the management of the Services.
- 4.7 The Company will provide the following additional Services, where such additional Services are specified in the Order Form or otherwise agreed in writing between the parties as a Change:
- 4.7.1 additional support in accordance with paragraph 11; and/or
- 4.7.2 technical capacity reviews and/or technical availability reviews in accordance with paragraph 12.
- 4.8 The Company will provide the Management Services accordance with Table 1 below (Service Management Tiers), depending on the type of Service Management specified in the Order Form.

Table 1 – Service Management Tiers

	Desk Based			Field Based			Dedicated
	Foundation	Standard	Enhanced	Standard	Enhanced	Premium	Premium Plus
	CSM-DBF	CSM-DBS	CSM-DBE	CSM-FBS	CSM-FBE	CSM-FBP	CSM-DED
Meeting Frequency							
Service Review Meeting	Annual (conference call)	Quarterly (conference call)	Monthly (conference call)	Quarterly (face to face)	Monthly (face to face)	Monthly (face to face)	Bespoke
Strategic Review Meeting	Not included	Not included	Not included	Annually	Bi-Annually	Bi-Annually	Bespoke
Technical Capacity Review Meeting	Not applicable	Not applicable	Not applicable	Optional	Optional	Optional	Optional
Technical Availability Review Meeting	Not applicable	Not applicable	Not applicable	Optional	Optional	Optional	Optional
Service Elements							
Service Reporting	Annual	Quarterly	Monthly	Quarterly	Monthly	Monthly	Bespoke
Lifecycle Management	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Service Improvement Plan	As required	As required	As required	As required	As required	As required	As required
Continual Service Improvement	Not included	Not included	Not included	Yes	Yes	Yes	Bespoke
Operations Manual	Standard	Standard	Standard	Enhanced	Enhanced	Enhanced	Bespoke
Escalation Management	Inclusive	Inclusive	Inclusive	Inclusive	Inclusive	Inclusive	Inclusive

Desk Based / Additional Dedicated Support	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Optional
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5 DESK BASED SERVICE MANAGEMENT

- 5.1 There are three different types of Desk Based Service Management: Foundation, Standard or Enhanced. Depending on the type of Desk Based Service Management specified in the Order Form, the Company will provide the Desk Based Management Services, including service review meetings and reports in accordance with the applicable column under the heading “Desk Based” in Table 1 (Service Management Tiers).

6 FIELD BASED SERVICE MANAGEMENT

- 6.1 There are three different types of Field Based Service Management: Standard, Enhanced and Premium. Depending on the type of Field Based Service Management specified in the Order Form, the Company will provide the Field Based Management Services in accordance with the applicable column under the heading “Field Based” in Table 1 (Service Management Tiers).
- 6.2 Field Based Service Management is served by Company Personnel who are mobile and can work from any of the Company’s office locations or, on occasions, from Customer Premises or other Sites. This Service Management Tier provides regular Service Management engagement from the Company, with service review meetings and strategic review meetings held face-to-face either at the Company’s sites or Customer Premises.

7 DEDICATED SERVICE MANAGEMENT (PREMIUM PLUS)

- 7.1 Where Dedicated Service Management is specified in the Order Form, the Company will provide the Dedicated Management Services in accordance with the column with the heading “Dedicated” in Table 1 (Service Management Tiers). Unless otherwise expressly agreed, the Dedicated Service Manager will be primarily focused on the Customer’s Services and will devote such time as may be necessary for the proper performance of the Service Management.

8 IMPROVEMENT PLANS

- 8.1 The Company will, on a reactive basis in response to an issue or concern raised by the Customer, initiate and own a service improvement plan (“SIP”) using the Company’s standard action and risk register templates to address any shortfalls in the Services identified by the Customer. The SIP will be used to collate and track targeted improvement initiatives, actions and the relevant progress made against each in response to the relevant issue.
- 8.2 Where identified in Table 1 (Service Management Tiers) that the Service Management includes continual service improvement, the Company will on a proactive basis initiate and own a continual service improvement plan (“CSIP”) using the Company’s standard action and risk register templates to monitor the service delivery and address any identified shortfalls. The CSIP will be used to collate and track continuous service improvement initiatives, actions and the relevant progress made against each. The CSIP will be an agenda item within the regular service review meetings to discuss any service improvement initiatives and their progress.

9 SERVICE OPERATIONS MANUAL

- 9.1 Where identified in Table 1 (Service Management Tiers) that the Service Management includes for a “Standard” service operations manual, the Company will create, on or shortly after the Commencement Date, an operations manual, which will be maintained and owned by the Company and shared with the Customer on request. The template and content to be captured and maintained within the operations manual is at the Company’s discretion and will identify the following information relevant to the Customer:
- 9.1.1 key Company contacts;
 - 9.1.2 support contact details;
 - 9.1.3 escalation matrix;
 - 9.1.4 in-scope service summary;
 - 9.1.5 operational process overviews; and
 - 9.1.6 Customer contacts and authorisation matrix; and
 - 9.1.7 such other information as this Contract expressly requires.

9.2 Where identified in Table 1 (Service Management Tiers) that the Service Management includes for an “Enhanced” service operations manual, the Company will create, on or shortly after the Commencement Date, an operations manual in accordance with paragraph 9.1, together with the following additional information relevant to the Customer:

- 9.2.1 the Customer architecture and Service detail;
- 9.2.2 core/critical business application details; and
- 9.2.3 any agreed Customer-specific processes.

10 STRATEGIC REVIEW MEETINGS

10.1 For either Field Based Service Management or Dedicated Service Management, the Company will organise a strategic review meeting according to the frequency set out in Table 1 (Service Management Tiers), on dates mutually agreed between the parties, as follows:

- 10.1.1 the strategic review meetings will be held as either a face-to-face meeting at the Company’s Site or Customer Premises, or as a conference call, potentially using video as well as audio, as mutually agreed between the parties; and
- 10.1.2 the Company will be represented by a member of its management team, the account manager aligned to the Customer and the Service Manager.

11 ADDITIONAL DESK BASED SERVICE MANAGEMENT SUPPORT

11.1 Where additional Desk Based support is identified in the Order Form, the Company will provide an additional named resource, to work alongside the Service Manager to conduct relevant activities as required to support the Service Manager in delivering the Service Management obligations to the Customer.

12 TECHNICAL CAPACITY AND/OR AVAILABILITY REVIEW MEETINGS AND REPORTS

- 12.1 Within the Field Based Service Management and/or Dedicated Service Management Customers may choose to include technical capacity and/or availability review meetings to compliment the service performance reports and service review meetings. These Services will be identified as an additional Service in the Order Form, if applicable.
- 12.2 The technical capacity and/or availability review meetings are separate meetings to the service review meetings and will comprise suitable resource (which could include technical resource) from both parties convened to discuss capacity or availability trends and requirements, as applicable, in order to identify any next step activity required.
- 12.3 Where technical capacity and/or availability review meetings are identified in the Order Form, the Company will:
 - 12.3.1 provide capacity or availability reports, as applicable, against the relevant Supported Equipment, including capacity trending data; and
 - 12.3.2 provide outline commentary and/or recommendations at the review meetings in response to the reports to remedy any assets that suggest capacity or availability issues or trends requiring action now or in the future in accordance with the Customer’s requirements and based on the Company’s opinion as a good practice approach to address the capacity or availability requirements, as applicable.

13 REPORTING

- 13.1 The Company will provide Reports at the frequency set out in Table 2 (Reporting). The Reports will be delivered electronically, either as an emailed attachment or via a web portal.
- 13.2 Where the Company is providing Services for Supported Equipment under this Contract, the Company will provide a lifecycle management report on an annual basis, either on or around the anniversary of the Commencement Date or an alternative date agreed between the Company and the Customer, identifying the following information:
 - 13.2.1 a list of all Supported Equipment;
 - 13.2.2 an identifier per item of Supported Equipment of the Vendor’s lifecycle status (for example ‘end of sale’, ‘end of support’, ‘sunset announcement’);
 - 13.2.3 any known end of sale, end of support, end of life dates as available from the Vendor; and
 - 13.2.4 recommendations to remedy any Supported Equipment that has a supportability status requiring action now or in the future, in accordance with the Vendor’s advice or based on the Company’s opinion as a good practice approach to address the supportability requirement.
- 13.3 Subject to paragraph 13.4, the Company will provide the following Reports as part of the Service Management:

Table 2 - Reporting

Report	Description	Frequency
Service Performance Report	A standard Service report identifying the Company's Service Level performance against all Services, with contextual information, including regarding the volume of incidents and/or service requests managed by the Company	Annually, quarterly, monthly or bespoke as per the Service Management Tier
Capacity Report	As provided in accordance with paragraph 12.3	Monthly or quarterly as agreed with the Customer
Availability Report	As provided in accordance with paragraph 12.3	Monthly or quarterly as agreed with the Customer
Lifecycle Management Report	As provided in accordance with paragraph 13.2	Annually on or around the anniversary of the Commencement Date

- 13.4 Capacity Reports and/or availability Reports are only delivered where technical capacity review meetings or technical availability review meetings, as applicable, are identified in the Order Form. The lifecycle management Report is only delivered where the Company is providing Services for Supported Equipment under this Contract.

14 CUSTOMER OBLIGATIONS

- 14.1 The Customer will:
- 14.1.1 where applicable, provide the following accommodation and services free of charge for the benefit of the Dedicated Service Manager for the duration of the provision of the Service Management at the relevant Customer Premises:
 - (a) connection to the Customer's computer servers and/or internet connection (but for the avoidance of doubt, not the provision of laptops or computers);
 - (b) suitable office and desk accommodation and the use of all normal office facilities, including telephones, printers and other office facilities;
 - (c) all usual site catering and welfare facilities, available for the Customer's own employees; and
 - (d) such other facilities that may be stipulated in the Order Form and/or are reasonably required by the Dedicated Service Manager for the provision of the Service Management;
 - 14.1.2 identify, confirm and provide the details of a relevant peer within the Customer's organisation to be the primary interface to the Service Manager;
 - 14.1.3 assist in setting End User expectations in respect of the Service Levels and relevant service limitations across its business; and
 - 14.1.4 provide to the Company a relevant contact list of relevant Customer Representatives for the purposes of the Services and provide regular updates to such list. This list will include all contact details for the Customer's internal escalation routes and standby call-out rotas.
- 14.2 The Customer will ensure that escalation of Service issues to the Service Manager occur only from the Company's Representative (and not End Users) and only once the relevant operational escalation processes (for example service desk processes) have been followed without resolution or such process have otherwise failed.

15 EXCLUSIONS FROM THE SERVICES

- 15.1 The following are excluded from Service Management:
- 15.1.1 where any configuration of Reports and/or additional reporting is specified in this Contract, any reconfiguration of such Reports or any other additional reports;
 - 15.1.2 any technical and/or operational responses based on the output of the Reports;

- 15.1.3 any performance management of third party break-fix maintenance providers, including any responsibility for managing that third party provider's responsibilities to meet any service levels to the Customer (except where that provider is directly contracted via the Company to provide the services to the Customer under this Contract);
- 15.1.4 in providing the lifecycle management report and/or capacity and/or availability reports, responsibility for providing pricing and/or taking remedial action on behalf of the Customer as part of any support agreement, unless and until the parties agree otherwise as a Variation to this Contract;
- 15.1.5 technical consulting and/or or training, provided that the Service Manager will otherwise answer all reasonable non-technical enquiries received from the Customer's Representatives; and
- 15.1.6 with regards to SIPs and CSIPs, at no time shall the Company be obliged to use or contribute to a Customer-owned action and risk register template. Service Management is priced solely on the basis of the Company using its own documents and templates.

16 GENERAL

- 16.1 The parties agree that the Service Management provided under this Contract is a contract for services and not of employment or secondment. It is the parties' intention that the Service Manager and other relevant Company Personnel shall not have the status of employees of the Customer during the Term.
- 16.2 The Company may at its discretion grant access permission to the Customer to use a reporting and management service portal, which is designed to facilitate the Company's Service Management under this Contract. The Company understands that while the Company may elect, in its discretion, to make such portal available at no charge, the Company makes no promise, guarantee or commitment to do so or to maintain any such access if granted.
- 16.3 The Company will use reasonable endeavours to procure that the Service Manager complies with all relevant Customer policies relating to the Customer Premises where the Service Manager will be working, including but not limited to site access and security, use of information and communication systems, anti-harassment and bullying, no smoking and dress code policies.

17 CHARGES AND INVOICING

- 17.1 The Charges for Service Management are as identified in the Order Form. The Charges will be invoiced quarterly in advance, with the first invoice issued by the Company on or around the Commencement Date for Service Management and quarterly thereafter, prior to each relevant quarter.
- 17.2 The Charges for Field Based and Dedicated Service Management include all reasonable travel and other expenses incurred by the Service Manager in visiting the Customer Premises for the purposes of Service Management in accordance with the normal frequencies provided for in these Specific Conditions, but for the avoidance of doubt excluding international travel and any other travel to Customer Premises and/or Sites that are not the Service Manager's usual place of work for the Customer.
- 17.3 The Charges for Desk Based Service Managers do not include any allowances for travel and other expenses. To the extent that the Company agrees that the Service Manager (or any other Company Personnel) will travel to any Customer Premises for the purposes of Service Management, all relevant travel, accommodation and other expenses, shall be charged to the Customer in addition to the Charges.



SPECIFIC CONDITIONS I4 – DAISY CLOUD PLATFORM

These Specific Conditions govern the Daisy Cloud Services that may be provided by the Company under a Contract, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “Conditions”), which shall be deemed to be incorporated into the Contract for the performance of any Daisy Cloud Services provided under these Specific Conditions.

1 DEFINITIONS

1.1 Capitalised terms used in these Specific Conditions shall have the following meanings for the purposes of these Specific Conditions only:

“Active Resiliency”	means as defined in paragraph 4.1.2(a);
“Bandwidth”	means an amount of data traffic measured in b/s (bits per second) across the inter-connect;
“Broadband Acceptable Use Policy”	means the Company’s policy for the acceptable use of its Broadband Services and/or the internet, the current version of which is available at www.dcs.tech (or at such other website address as is notified to the Customer by the Company from time to time);
“Change Management”	has the meaning given to it in Specific Conditions X3 – Standard Operational Services;
“Customer Data”	means all data, including all text, sound, video, image files and software that are provided to the Company by, or on behalf of, the Customer through use of the Daisy Cloud Services;
“Customer Environment”	means the agreed service elements for the Daisy Cloud Platform for the Customer as set out in the Order Form;
“Daisy Cloud Network”	means the Daisy Cloud Hardware, excluding the storage and servers;
“Daisy Cloud Platform”	means together the Daisy Cloud Hardware and the Hypervisor provided by the Company and made available to the Customer to host virtual services;
“Daisy Cloud Services”	means the provision of the Daisy Cloud Platform by the Company to the Customer for hosting the Customer Environment together with any and all Services provided by the Company under these Specific Conditions;
“Daisy Cloud Hardware”	means the hardware, including but not limited to the relevant storage and servers, switches, routers and firewalls owned and provided by the Company to support the Daisy Cloud Services;
“DNS”	means domain name system, which is the Internet’s system for converting alphabetic names into numerical IP addresses;
“DNS Services”	means those Services provide in accordance with paragraph 7;
“Hypervisor”	means software that runs on computer hardware that allows one or more host computers to support multiple guest virtual machines by virtually sharing its resources;
“Incident”	means as defined in Specific Conditions X3 - Standard Operational Services;
“Incident Management”	means as defined in Specific Conditions X3 - Standard Operational Services;
“Intersite Service”	means (if any stated on the Order Form) the connectivity between a Primary Data Centre and a Secondary Data Centre provided in accordance with paragraph 8;
“IP”	means internet protocol, which is the method or protocol by which data is sent from one computer to another on the internet;
“IP Address”	means internet protocol address, which is the unique identifier for a computer or other device that distinguishes it from all other devices connected to the internet;



“IP-SEC VPN”	means IP security virtual private networks, being the set of protocols that provides security for IPs used for setting up of virtual private networks (VPNs) in a secure manner;
“ISP”	means an internet service provider;
“Measurement Period”	means as defined in paragraph 15.3;
“Network Time Protocol”	means a protocol used to synchronize computer clock times in a network;
“Non-Active Resiliency”	means as defined in paragraph 4.1.2(b);
“Primary Data Centre”	means the data centre facility used as the primary location housing the Daisy Cloud Platform;
“Quality of Service”	means the capability of a network to provide better service to selected network traffic over various technologies, including frame relay, asynchronous transfer mode (ATM), Ethernet and 802.1 networks, SONET, and IP-routed networks that may use any or all of these underlying technologies;
“Recovery Point Objective”	means the age of files that would be recovered from backup storage for normal operations to resume if the Daisy Cloud Platform is affected by a disaster or disruption, as set out in the Order Form;
“Recovery Time Objective”	means the targeted duration of time within which the Daisy Cloud Platform would be restored after a disaster or disruption, as set out in the Order Form;
“Resiliency Options”	means the resiliency options for the Daisy Cloud Services (if any) as set out in the Order Form;
“Secondary Data Centre”	means (if any set out in the Order Form) the data centre facility used as a secondary data centre, which may be designated to act as a failover for any occurrence where Services from the Primary Data Centre are compromised;
“Service Availability”	means the proportion of time that the Daisy Cloud Platform is available during the Measurement Period as defined and calculated in accordance with paragraph 14.2;
“Service Management”	means the Services described in Specific Conditions F2 – Service Management;
“Scheduled Maintenance”	means any maintenance, planned outages or server relocation scheduled by the Company to carry out any preventative or other maintenance services to the Daisy Cloud Platform in accordance with paragraph 11;
“SQL”	means structured query language, which is the standard computer language for relational database management and managing data;
“VLAN”	means a virtual local area network, which is any broadcast domain that is partitioned and isolated in a computer network at the data link layer;
“VRF”	means virtual routing and forwarding, which is a technology included in IP network routers that allows multiple instances of a routing table to exist in a router and work simultaneously; and
“WAN”	means wide area network, which is a telecommunications network or computer network that extends over a large geographical distance.

1.2 All other capitalised terms that are not defined in paragraph 1.1 shall have the meanings stated in the Conditions.

2 COMMENCEMENT DATE

2.1 The Commencement Date of the Daisy Cloud Services shall be the date specified as such in the Order Form or, if no date is specified, the date on which the Company commences the provision of Daisy Cloud Services to the Customer.

3 MINIMUM TERM

3.1 The Minimum Term shall be as set out in the Order form, or if no Minimum Term is specified, twelve (12) calendar months from the Commencement Date.



4 DAISY CLOUD PLATFORM

4.1 The Company will:

- 4.1.1 maintain the Daisy Cloud Hardware within a Primary Data Centre and (if set out in the Order Form) a Secondary Data Centre;
- 4.1.2 provide the Daisy Cloud Platform to support the Customer Environment as set out in the Order Form, together with the following Resiliency Options (if any) as set out in the Order Form:
 - (a) if Active Resiliency is set out in the Order Form, the Company will:
 - (i) provide a live instance of the Customer Environment in a Secondary Data Centre to mirror the live instance of the Customer Environment in the Primary Data Centre, together with the Intersite Services in accordance with paragraph 8; and
 - (ii) failover and restore the Customer Environment into a Secondary Data Centre in accordance with the Recovery Time Objective for Active Resiliency;
 - (b) if Non-Active Resiliency is set out in the Order Form, the Company will:
 - (i) provide a standby replicated copy of the Customer Environment, together with the Intersite Services in accordance with paragraph 8;
 - (ii) provide the relevant licences for the necessary replication software; and
 - (iii) failover and restore the Customer Environment into a Secondary Data Centre in accordance with the Recovery Time Objective for Non-Active Resiliency;
- 4.1.3 provide termination points into a Primary Data Centre and (if applicable) a Secondary Data Centre for the Customer's WAN connectivity;
- 4.1.4 where required and identified in the Order Form, provide IP-Sec VPN on Company provided and managed firewalls, for third party remote access (providing always that the Customer accepts it is liable for and shall hold the Company harmless against all costs, losses and liabilities caused by the acts and omissions of the applicable third party whilst it accesses the Daisy Cloud Services);
- 4.1.5 where required and identified in the Order Form, provide two-factor authentication, for third party remote access (providing always that the Customer accepts it is liable for and shall hold the Company harmless against all costs, losses and liabilities caused by the acts and omissions of the applicable third party whilst it accesses the Daisy Cloud Services);
- 4.1.6 where required and identified in the Order Form, deploy an automated backup solution for the Customer Environment and the Customer's data within the Customer Environment that will comprise daily backups that will be retained for 31 (thirty one) days or such other period as set out in the Order Form;
- 4.1.7 where required and identified in the Order Form, provide DNS hosting services and/or registering and maintaining domains;
- 4.1.8 provide the Third Party Software licensed products stated in the Order Form as being provided by the Company as part of the Daisy Cloud Services (providing always that the Customer hereby acknowledges and agrees that it shall not use such licences except within the Daisy Cloud Services);
- 4.1.9 apply patches and/or firmware updates to the Daisy Cloud Hardware and Hypervisor to address security vulnerabilities without undue delay following the release of the security patches and/or relevant updates from the relevant Vendor and the Customer acknowledges and agrees that the Company shall not otherwise be obliged to patch the Customer's operating systems or software on the Daisy Cloud Platform unless such obligation is expressly accepted by the Company in an Order Form with reference to Specific Conditions I3 – Cloud Management Services;
- 4.1.10 where required and identified in the Order Form, provide an internet breakout service, under which the Company will:
 - (a) provide secure internet connectivity to each server within a Primary Data Centre and (if applicable) a Secondary Data Centre via independent diversely routed switches and routers;
 - (b) monitor and manage this service;
 - (c) provide public IP Addresses; and



- (d) provide and maintain logical segregation of networks on shared infrastructure using VLAN separation, unique subnets and WAN VRF separation as appropriate;
- 4.1.11 provide a data centre network management service, under which the Company will:
 - (a) manage a secure data transmission local area network service within a Primary Data Centre and (if applicable) a Secondary Data Centre;
 - (b) monitor and manage the Daisy Cloud Network 24x7;
 - (c) provide and maintain logical segregation of networks on shared infrastructure using VLAN separation, unique subnets and WAN VRF separation as appropriate; and
 - (d) provide any Quality of Service options as set out in the Order Form;
- 4.1.12 provide a storage management service, under which the Company will:
 - (a) provide the relevant amount of storage as specified in the Order Form on the Daisy Cloud Platform;
 - (b) manage the storage arrays and fibre interconnects; and
 - (c) where required and identified in the Order Form, provide 24x7 monitoring of the storage capacity (i.e. whether the Customer is reaching the limit of such storage) within the Daisy Cloud Platform;
- 4.1.13 where required and identified in the Order Form, provide a time service, under which the Company will:
 - (a) provide resilient dual site GPS (global positioning system) synchronised timing appliances using the industry standard Network Time Protocol; and
 - (b) configure the Daisy Cloud Hardware to use the approved time service; and
- 4.1.14 where required and identified in the Order Form, undertake contingency, backup and recovery strategy planning for the Daisy Cloud Platform for the provision of a continued service in respect of both Active Resiliency and Non-Active Resiliency following a business service interruption to the Daisy Cloud Platform.
- 4.2 The Daisy Cloud Services are provided solely for the Customer's use and the Customer may not resell or attempt to resell the Daisy Cloud Services (or any part of them) to any third party.
- 4.3 The Company reserves the right (at the Company's sole discretion):
 - 4.3.1 to make changes to the Daisy Cloud Services (or any part thereof) that do not have a material adverse effect on the Services and shall where the Company deems it practical to do so, give the Customer notification of the same;
 - 4.3.2 to suspend access to all or any part of the Daisy Cloud Services if at any time the Company has reasonable grounds to suspect that there has been or is likely to be a breach of security; and/or
 - 4.3.3 to require the Customer to (in which case, the Customer shall) change any or all of the passwords the Customer uses in connection with the Daisy Cloud Services.
- 4.4 Where the Company agrees to supply any IP Addresses, as expressly stated in the Order Form:
 - 4.4.1 any such IP Address that may be supplied by the Company to the Customer is licensed to the Customer on a non-exclusive, non-transferable, revocable basis for use only in conjunction with the Daisy Cloud Services and will remain the Company's or its licensor's property;
 - 4.4.2 following disconnection of the Daisy Cloud Services the Customer's licence to use any IP Address supplied by the Company will automatically terminate; the Customer will not make any further use of it (unless otherwise agreed in writing); and it may be re-assigned by the Company either to the Company itself or to a third party; and
 - 4.4.3 the Company reserves the right to charge the Customer for any IP Address used or retained by the Customer after termination of this Contract.

5 CUSTOMER DATA

- 5.1 As between the parties, the Customer retains all right, title and interest in and to Customer Data. The Company does not acquire any rights in Customer Data, other than the rights that the Customer grants to the Company under this Contract for it to provide the Daisy Cloud Services to the Customer. The Customer Data will be used or otherwise processed by the Company only to provide the Daisy Cloud Services to the Customer, including purposes compatible with providing those Services. The Company will not use or otherwise process any Customer Data or derive information from it for any advertising or similar commercial purposes.



- 5.2 The Company will not disclose Customer Data outside of its Group or subcontractors except:
- 5.2.1 as the Customer directs;
 - 5.2.2 as described in this Contract; or
 - 5.2.3 as required by law.
- 5.3 Customer Data may include Protected Data provided to the Company by, or on behalf of, the Customer through use of the Daisy Cloud Services. To the extent the Company is a processor or sub-processor of Protected Data subject to the Data Protection Laws, the terms in clause 16 of the Conditions govern that processing and the parties also agree to the following terms in this paragraph 5.
- 5.4 The parties agree that the Customer is the controller of Customer Data that is Protected Data and the Company is the processor of such data, except:
- 5.4.1 when the Customer acts as a processor, in which case the Company is a sub-processor; or
 - 5.4.2 as expressly stated otherwise in this Contract.
- 5.5 The Customer agrees that the terms of this Contract are the Customer's complete and final documented instructions to the Company for the processing of Protected Data. Any additional or alternate instructions must be agreed to as a Variation to this Contract in accordance with the Conditions.
- 5.6 The parties agree that the Company is the data controller for business contact information or other Personal Data that may be collected at the same time as Customer Data but is needed by the Company to maintain the business relationship with the Customer.
- 5.7 All rights to access or use the Daisy Cloud Services will terminate upon termination or expiry of the Daisy Cloud Services under this Contract, save as otherwise agreed between the parties. Except as otherwise expressly agreed between the parties in writing, the Customer will not have access to any Customer Data following expiry or termination of this Contract. At the Customer's choice, which shall be made and notified in writing to the Company prior to expiry or termination, the Company will delete or return to the Customer all the Customer Data after the end of the provision of Services, and delete existing copies unless Relevant Law requires storage of the Personal Data. In the absence of the notification of the Customer's choice being received by the Company prior to the expiry or termination of the Contract, the Company shall be entitled to delete all copies of the Customer Data.
- 5.8 The expiration or termination of the Daisy Cloud Services will not prejudice the Customer's obligation to pay for the storage (if any) of Customer Data agreed between the parties in writing.
- 5.9 Without prejudice to the Company's rights of suspension in the Conditions, the Company may (but shall not be obliged to) suspend the Customer's use of the Daisy Cloud Services if:
- 5.9.1 it is reasonably needed to prevent unauthorised access to Customer Data;
 - 5.9.2 the Company believes that the Customer or the Customer Data breaches Relevant Law;
 - 5.9.3 the Customer fails to respond to a claim of alleged infringement of third party Intellectual Property Rights under paragraph 5.12 within a reasonable time; and/or
 - 5.9.4 the Customer does not abide by the Acceptable Use Policy or violates any other term of these Specific Conditions;
- and such suspension will apply to the minimum necessary part of the Daisy Cloud Services and will be in effect only while the condition or need exists. The Company will give notice before any such suspension, except where it reasonably believes it needs to suspend immediately. If the Customer does not fully address the reasons for the suspension within 60 (sixty) days after suspension, the Company may terminate the Daisy Cloud Services and delete the Customer Data without any retention period.
- 5.10 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to HM Revenue and Customs, Trading Standards, the Information Commissioner's Office and/or OFCOM and their successors from time to time) in connection with any Customer Data and/or misuse or suspected misuse of the Daisy Cloud Services, and the Customer consents to the Company co-operating with any such authority and with any other telecommunications operators in connection with the Daisy Cloud Services if the Company is required to do so by law. If any such authority contacts the Company with a demand for Customer Data, the Company will attempt to redirect the third party to request that data directly from the Customer. The Customer agrees without prejudice to the generality of the foregoing, that the Company will be entitled to divulge any information that the Company holds that may be relevant to any investigation, including the name, address and account information relating to the Customer to such third parties.



- 5.11 Any assistance given by the Company in relation to and/or any fraudulent and/or unauthorised use by the Customer or third parties (or the prevention of such use) will be on an endeavours basis only and no liability can be accepted by the Company for any loss sustained by the Customer arising from fraudulent and/or unauthorised means that are beyond the Company's reasonable control (save for any fraud and/or unauthorised use by an employee, agent or contractor of the Company acting in that capacity).
- 5.12 Subject to clause 19.9 of the Conditions, the Customer shall indemnify the Company and keep the Company indemnified against all losses, damages, reasonable costs or reasonable expenses and other liabilities (including reasonable legal fees) incurred by, awarded against or agreed to be paid by the Company arising from any claim made against the Company for actual or alleged infringement of a third party's Intellectual Property Rights arising out of the Customer Data or any processing, storage or other necessary use in accordance with this Contract by the Company of such Customer Data in conjunction with the Daisy Cloud Services.

6 IT SERVICE CONTINUITY

- 6.1 Where specified on the Order Form that the Company is providing IT service continuity planning, the Company will:
- 6.1.1 provide and maintain a service continuity management plan for a pre-determined and agreed level of service to support the minimum business requirements of the Customer following a business service interruption to the Customer Environment;
- 6.1.2 where the Customer has chosen a Resiliency Option provide plans that endeavour to meet the Recovery Time Objective and Recovery Point Objective levels.

7 DNS SERVICES

- 7.1 Where the Company is providing DNS Services as identified in the Order Form, it will for those domain names detailed in the Order Form provide, manage and update the necessary DNS record entries, including updating public IP Addresses as required from time to time.
- 7.2 The Customer will;
- 7.2.1 advise the Company of any permanent changes required to the DNS Services;
- 7.2.2 prior to the Commencement Date, authorise the Company to move the Customer's records for all valid domain names from the Customer's ISP to the Company's ISP; and
- 7.2.3 pay any third party costs associate with the domain name procurement, renewal and/or registration process.

8 INTERSITE SERVICE

- 8.1 Where the Company is providing an Intersite Service as identified in the Order Form, it will:
- 8.1.1 provide a secure connection between a Primary Data Centre and a Secondary Data Centre via independent diversely routed switches and routers;
- 8.1.2 monitor and manage the Intersite Service;
- 8.1.3 provide and maintain logical segregation of networks on shared infrastructure using VLAN separation, unique subnets and WAN VRF separation;
- 8.1.4 provide Quality of Service options (if any) as set out in the Order Form; and
- 8.1.5 provide the allocated Bandwidth detailed in the Order Form.

9 SOFTWARE LICENCE TERMS

- 9.1 To the extent that the Daisy Cloud Services involve End Users accessing Software then the Customer shall procure that all End Users shall comply with the applicable licence terms, not cause the Customer to breach such terms and provide the Company with such necessary registration details as are to be agreed between the Company and the Customer, which will be a minimum of the End User's full name and email address. The Customer acknowledges and accepts that if the End User does not provide this information and does not agree to any relevant acceptable use terms and conditions relating to such Software as notified by the Company from time to time in writing then the End User will not be able to connect to the applicable Software.
- 9.2 The Customer acknowledges and accepts that the Company shall have no liability to the Customer to the extent that the End User is unable to access the relevant Software and/or Daisy Cloud Services to the extent due to any failure to provide the necessary information set out in paragraph 9.1.



10 THIRD PARTY SOFTWARE AND LICENCES

- 10.1 As part of the Daisy Cloud Services, the Customer may be permitted to use certain Third Party Software developed and owned by Vendors. If the Customer uses the Third Party Software, the Customer agrees to these additional terms and conditions:
- 10.1.1 the Third Party Software is neither sold nor distributed to the Customer and the Customer shall use it solely as part of the Daisy Cloud Services;
 - 10.1.2 the Customer shall not transfer or use the Third Party Software outside the Daisy Cloud Services;
 - 10.1.3 the Customer shall not remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the Third Party Software; and
 - 10.1.4 the Customer shall not reverse engineer, decompile or disassemble the Third Party Software, except to the extent expressly permitted by applicable law.
- 10.2 The Customer acknowledges and agrees that the Vendors disclaim, to the extent permitted by applicable law, all warranties by the Vendors and any liability by the Vendors or its suppliers for any damages, whether direct, indirect, or consequential, arising from the Daisy Cloud Services and/or the provision of the Third Party Software in relation to such Services. The Customer acknowledges and agrees that the Vendors are not responsible for providing any support in connection with the Services and/or the Third Party Software. The Customer shall not contact the Vendors for such support.
- 10.3 The Customer acknowledges and agrees that the Company disclaims, to the extent permitted by applicable law, all warranties by the Company and any liability by the Company for any damages, whether direct, indirect, or consequential, arising from the provision or use of the Third Party Software in relation to the Daisy Cloud Services.
- 10.4 The Customer acknowledges and agrees that it is not granted any right to use the Third Party Software in any application controlling aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, weaponry systems, or any similar scenario (collectively, "**High Risk Use**"). The Vendors and their suppliers disclaim any express or implied warranty of fitness for High Risk Use. High Risk Use does not include utilisation of the Third Party Software for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function.

11 SCHEDULED MAINTENANCE

- 11.1 Subject to paragraphs 11.2 and 11.3, Scheduled Maintenance on the Daisy Cloud Platform and on the Primary Data Centre or Secondary Data Centre (excluding emergency maintenance) will be provided by the Company to the Customer and will occur during the period from 12.01am on Saturday to 11.59pm on Sunday.
- 11.2 To the extent the Daisy Cloud Services include provision of a Secondary Data Centre, the Company will ensure that Scheduled Maintenance does not occur at both the Primary Data Centre and the Secondary Data Centre during the same scheduled maintenance period. Outside of the scheduled maintenance period, as permitted in accordance with paragraph 11.1, the Company may undertake maintenance activities provided that there is no impact on the Service Availability of the Daisy Cloud Platform.
- 11.3 The Company will provide to the Customer as much advance notice as is reasonably practicable (in any event no less than 5 (five) Business Days' notice) of any Scheduled Maintenance.

12 REPORTING

- 12.1 Subject to clause 12.2, the Company will provide reporting on Service Availability monthly.
- 12.2 The frequency of the reporting will be aligned to the Service Management tier purchased by the Customer from the Company and identified in the Order Form. Where Service Management is not procured by the Customer from the Company, the Company shall not be obligated to provide the reporting.

13 CUSTOMER OBLIGATIONS

- 13.1 The Customer is responsible for:
- 13.1.1 determining whether the Daisy Cloud Services are appropriate for storage and processing of information subject to any specific law or regulation applicable to the Customer and/or the Customer's industry and for using the Daisy Cloud Services in a manner consistent with Customer's legal and regulatory obligations;



- 13.1.2 for responding to any request from any regulatory authority regarding Customer's use of the Daisy Cloud Services, such as a request to delete or take down content under Relevant Laws;
- 13.1.3 ensuring there is no fraudulent and/or unauthorised use of the Daisy Cloud Platform or any use by any unauthorised third parties (who are not employees of the Customer or the Customer's Group) that would constitute a breach by the Customer of its obligations under this Contract;
- 13.1.4 providing the Company with all information and documentation that may reasonably be requested by the Company in order to allow the Company to fulfil its obligations;
- 13.1.5 maintaining the security and firewalls of the Customer's systems, network elements, communications links, equipment, software, services and processes used in connection with the Daisy Cloud Services, unless expressly agreed otherwise in this Contract;
- 13.1.6 maintaining (and ensuring that each of its authorised End Users maintains) at all times, the integrity and secrecy of all passwords, log-in details and access codes used for the purposes of accessing or using the Daisy Cloud Services;
- 13.1.7 providing all licensing of all software that is not set out in the Order Form as being provided by the Company;
- 13.1.8 support for any application running on the Daisy Cloud Platform that is not otherwise expressly agreed to be maintained by the Company under this Contract;
- 13.1.9 ensuring that the Customer's employees adhere to the Customer's Broadband Access Usage Policy;
- 13.1.10 the replacement costs associated with the loss, damage or renewal to any token provided as part of two-factor authentication provided by the Company;
- 13.1.11 defining and enforcing local End User policy on acceptable data for storage and backup purposes and advising the Company of that policy as amended from time to time;
- 13.1.12 timely engagement with the Company's Change Management process;
- 13.1.13 any and all data held on devices that have not been synchronised with the Daisy Cloud Platform;
- 13.1.14 save to the extent it is agreed in writing by the Company to do so, the back-up of any Customer Data stored in the Daisy Cloud Platform; and
- 13.1.15 the secure storage, management and provision of restores of any data backed up prior to the Commencement Date.
- 13.2 The Customer agrees and undertakes:
 - 13.2.1 not to use the Daisy Cloud Services to send, receive or store any material that could constitute or encourage conduct that would be considered a criminal offence; or that is either offensive, abusive, indecent, obscene, pornographic, fraudulent, libellous, defamatory, menacing, criminal or likely to cause annoyance or distress to any third party or likely to incite or promote illegal activities in any jurisdiction and to otherwise use the Daisy Cloud Services in accordance with Relevant Laws and in a manner that does not cause the Company to breach any Relevant Laws;
 - 13.2.2 not to use the Daisy Cloud Services in a manner that constitutes a violation or infringement of the rights (including, without limitation, any Intellectual Property Rights) of any other person;
 - 13.2.3 to implement adequate control and security over the use of the Daisy Cloud Services by its End Users, including but not limited to the prevention of Viruses; and
 - 13.2.4 not to cause, aid, encourage or facilitate a domain or URL hosted by the Company for the Customer to point or otherwise direct traffic to any material that violates any Relevant Laws.

14 EXCLUSIONS

- 14.1 The following are expressly excluded from the scope of the Daisy Cloud Services and these Specific Conditions:
 - 14.1.1 administrative access for the Customer to Daisy Cloud Platform;
 - 14.1.2 any software licence renewals and/or security certificate renewals, save as expressly provided in these Specific Conditions or otherwise provided in the Order Form;
 - 14.1.3 any security services and therefore the Company will not be liable for any security-related attacks or impact that causes any loss to the Customer;



- 14.1.4 the encryption of any Customer Data unless otherwise expressly agreed in the Order Form;
- 14.1.5 the provision of any assistance or services in relation to the Customer's migration or transfer to the Daisy Cloud Services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions X2 – Professional Services;
- 14.1.6 the provision of firewalls and/or local area network services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions G1 – Local Area Network Services;
- 14.1.7 the provision of cloud management services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions I3 – Cloud Management Services; and
- 14.1.8 the provision of connectivity services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions J1 – Connectivity Services.

15 SERVICE LEVELS

15.1 Incident Management Service Levels

The Company will provide Incident Management in accordance with the Service Levels set out in Specific Conditions X3 – Standard Operational Services.

15.2 Service Availability

- 15.2.1 The target minimum Service Availability for the Daisy Cloud Services is as set out in the Order Form. Service Availability is calculated in accordance with paragraph 15.2.2 .
- 15.2.2 Subject to paragraph 15.4, the Service Availability of the Daisy Cloud Services is measured as a percentage and is a representation of the portion of time that the relevant service is available during the Measurement Period calculated in accordance with this paragraph 15.2.2.

Availability is calculated using the following formula:

$$Availability = \frac{(AST - DT)}{AST} \times 100$$

Where:

AST = Agreed Service Time (which unless otherwise agreed is the total number of minutes in the Measurement Period)

DT = Downtime being the actual time in minutes that the Daisy Cloud Platform is unavailable during the Agreed Service Time

15.3 Measurement Period

Unless otherwise stated in the Order Form, the Company's performance against the Service Levels will be measured each calendar month on the first day of the calendar month following the Commencement Date (the "**Measurement Period**"). Save in the case of manifest and demonstrable error, the Company's performance against the Service Levels shall be based solely on information recorded by the Company.

15.4 Service Level Exclusions

- 15.4.1 Any downtime or unavailability of the Daisy Cloud Services to the extent caused by the following shall be deemed not to be downtime for the purposes of the calculation of the Service Availability in accordance with paragraph 15.2 and the following shall not be taken into account for the purposes of any other Service Level calculations and such matters shall not be counted or considered in relation to any performance by the Company of any Service Level or other term or condition of this Contract:
 - (a) individual server or infrastructure component failure where the Daisy Cloud Services remain available (for example, the failure of a single web server in load balanced configuration while the alternate remains in service);
 - (b) where any third party application software becomes unsupported for reasons outside of the Company's control or any issues relating to third party application software that require the third party Vendor to remedy the issue;
 - (c) any hardware/software or communication link fault or failure at the Customer Premises or other Site (where such equipment is not otherwise owned and managed by the Company);



- (d) incidents to the extent caused by issues affecting any connectivity services that are outside of the Daisy Cloud Services;
- (e) any emergency maintenance carried out and/or any Scheduled Maintenance carried out in accordance with paragraph 11;
- (f) any downtime that is caused by the Customer or by a third party that is not a sub-contractor of or otherwise controlled or managed by the Company;
- (g) where a Primary Data Centre and Secondary Data Centre forms the Daisy Cloud Services, any downtime of a Primary Data Centre or Secondary Data Centre where the other data centre and other Daisy Cloud Services remain available;
- (h) any downtime or incident to the extent arising due to the invocation of an agreed exit plan or transitional assistance during the termination period.

15.4.2 The Company will provide the Customer with details of any exclusions claimed as part of its service reports to the Customer where Service Management has been procured from the Company.

16 CHARGES

16.1 The Charges for the Daisy Cloud Services are as set out in the Order Form.

16.2 Unless otherwise provided in the Order Form, the Company will invoice the Charges for the Daisy Cloud Services monthly in advance.

SPECIFIC CONDITIONS O2 – REMOTE SUPPORT

These Specific Conditions govern the Remote Support Services that may be provided by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Equipment and/or Services (the “**Conditions**”), which shall be deemed to be incorporated into the Contract for the performance of any Remote Support performed under these Specific Conditions.

1 DEFINITIONS

1.1 Capitalised terms used in these Specific Conditions shall have the following meanings for the purposes of these Specific Conditions only:

“Critical Incident”	means a Priority 1 (P1) Incident as determined in accordance with the Priority levels and Priority Level Examples set out in Table 1 and Table 2 in paragraph 10.3.1;
“Fair Use”	have the meanings set out in paragraph 6;
“Incident”	means any unplanned interruption or other failure, issue or problem that the Customer is experiencing in respect of the Supported Products;
“Incident Response Time”	means as defined in Table 3 (Incident Response Times) in paragraph 10.3.2;
“Out of Hours”	means any time outside of the Support Hours;
“Remote Support”	means the Services provided by the Company to the Customer in accordance with these Specific Conditions;
“Remote Support Hours”	means the agreed volume of hours per month made available to the Customer for Remote Support, as set out in the Order Form;
“Service Desk”	means the service desk provided by the Company to act as the initial point of contact for the Customer Representatives to log a request for Remote Support;
“Support Hours”	means 8am to 6pm on Business Days;
“Supported Products”	means those products listed as Supported Products on the Order Form for the purposes of the Remote Support;
“Tier 1”	means an initial support level who are responsible for resolving basic End User IT issues and dealing with the first contact for all End User issues;
“Tier 2”	means a more in-depth technical support level than Tier 1 with more experienced and knowledgeable technicians than Tier 1 on a particular product or service; and
“Tier 3”	means the expert technical support, being the highest level of support in a three-tiered IT technical support model responsible for handling the most difficult or advanced issues or problems.

1.2 All other capitalised terms used in these Specific Conditions, which are not defined in paragraph 1.1, shall have the meanings stated in the Conditions.

2 COMMENCEMENT DATE

2.1 The Commencement Date of the Remote Support services shall be the date specified as such in the Order Form or, if no date is specified, the date on which the Company commences provision of the Remote Support services to the Customer.

3 MINIMUM TERM

3.1 The Minimum Term for the Remote Support shall be as set out in the Order Form, or if no Minimum Term is specified, twelve (12) calendar months from the Commencement Date of the Remote Support services.

4 SERVICES

4.1 Remote Support comprises a reactive Tier 3 technical advice line to support the Customer with responding to queries and/or resolving Incidents in respect of the Supported Products. Remote Support will be given via telephone or, where made

SPECIFIC CONDITIONS O2 – Remote Support

available by the Customer to the Company, remotely via remote access facilities to the Customer's infrastructure. Subject to the Fair Use policy, the Company will provide Remote Support for the Supported Products.

- 4.2 The Company will provide a Service Desk to act as the initial point of contact for handling the Customer's requests for Remote Support in respect of Incidents. The Service Desk will be shared between the Customer and other customers of the Company. The Service Desk is for use by Customer Representatives only in respect of Remote Support and, unless expressly provided in an Order Form, shall not accept calls or requests for Remote Support from End Users. The Service Desk will be available during the Support Hours, for logging, recording and managing requests for Remote Support.
- 4.3 The Customer Representatives may at any time during the Support Hours notify the Service Desk of a question or Incident relating to the Supported Products via telephone and/or a web portal, as directed by the Company from time to time. All Critical Incidents must be logged via telephone with the Service Desk.
- 4.4 Once the Customer has raised a request for Remote Support the Company will:
 - 4.4.1 create a record of the Incident and provide a reference number to the Customer;
 - 4.4.2 categorise the Incident in accordance with the priorities in paragraph 10.3.1; and
 - 4.4.3 attempt to diagnose the Incident initially by telephone to ensure that the most suitable Tier 3 support engineer responds to the Incident; and
 - 4.4.4 arrange for an appropriate Tier 3 support engineer to call the Customer back within the Incident Response Time.
- 4.5 An annual technical audit of the Supported Products and the Customer's underlying infrastructure is included with Remote Support. The technical audit will suggest improvements to the Supported Products and/or the Customer's wider infrastructure and state that, when implemented, may reduce the number of Remote Support Hours required to be purchased each month. The technical audit will be conducted remotely by the Company. All Critical Incidents must be logged via telephone with the Service Desk.

5 OUT OF HOURS SUPPORT

- 5.1 An Out of Hours support service is available at an additional Charge, which will be stated on the Order Form, solely for Critical Incidents, which must be logged via telephone only.

6 FAIR USE

- 6.1 All Remote Support provided under these Specific Conditions are provided on a 'reasonable use' basis, as determined by the Company in accordance with this paragraph 6.
- 6.2 If, using its reasonable judgement, the Company considers that use of the Remote Support by the Customer has consistently or notably exceeded the Remote Support Hours threshold stated on the Order Form or that individual requests made by the Customer is not reasonable in nature, the Customer agrees that the Company may take reasonable steps to address the usage pattern or request. Such steps may include:
 - 6.2.1 a request by the Company that both parties shall convene within 14 (fourteen) days to review the Incidents causing the requests for Remote Support and agree a plan to reduce the number of Incidents being raised;
 - 6.2.2 the Company carrying out remedial work to address the root cause of the Incidents or other issues that are causing overuse of the Remote Support, such work being chargeable by the Company on a time and materials basis; and/or
 - 6.2.3 the Company revising the agreed threshold for Remote Support Hours along with the associated recurring Charges or imposing additional time and materials Charges in consideration of the overuse and/or additional Services requested.

7 CUSTOMER OBLIGATIONS

- 7.1 The Customer will:
 - 7.1.1 procure all relevant Vendor support agreements directly;
 - 7.1.2 provide the Company with all relevant Vendor support agreement details to enable the Company to raise support requests with Vendors as relevant and required;
 - 7.1.3 nominate approved Customer Representatives who may log Remote Support related requests with the Company;

SPECIFIC CONDITIONS O2 – Remote Support

- 7.1.4 provide details of all Tier 1 and Tier 2 triage and diagnostics testing (and results thereof) to the Company when raising a request for support in order for the Company's resources to review and factor in to any further action required to be undertaken by the Company.
- 7.1.5 provide all and any connectivity and remote access for the Company's resources to utilise if the Customer requires the Company's resources to directly access the Customer environment.
- 7.2 As Remote Support is for the provision of Tier 3 support, the Customer shall perform all usual and appropriate Tier 1 and Tier 2 triage and diagnostics activities before contacting the Company for the Remote Support.
- 7.3 The Customer shall provide all necessary remote access and any log-in credentials required by the Company in order to perform the technical audit.
- 7.4 The Customer shall provide any and all relevant configuration documentation as reasonably requested by the Company in order to support the Company's ability to translate and recognise the Customer infrastructure and environment within which the Remote Support is required to be delivered.

8 EXCLUSIONS

- 8.1 The following are excluded from the Remote Support:
 - 8.1.1 requests that involve training of the Customer, its staff or subcontractors;
 - 8.1.2 the cost of any software licence renewals or security certificate renewals;
 - 8.1.3 technical planning or consultancy services and/or installation support;
 - 8.1.4 the provision or installation of hardware, licensing and/or security certificates that are required to meet the pre-requisites for any patches or upgrades to the Supported Product released by the Vendor;
 - 8.1.5 any Vendor or other third party costs required to be incurred in order to resolve an Incident and/or to reduce the likelihood of further Incidents;
 - 8.1.6 any requirement for Company Personnel to visit Customer Premises;
 - 8.1.7 Supported Products where the Customer's current version of that Supported Product is no longer supported by the Vendor, in respect of which the Company will notify the Customer of any versions of any Supported Products that are no longer supported by the Vendor;
 - 8.1.8 Incidents relating to the underlying infrastructure that the Supported Products reside on, including the physical hardware; and
 - 8.1.9 liaising with relevant third party Vendors where such Vendors do not recognise the Company as an authorised party to liaise on behalf of the Customer;
- (the "**Excluded Services**") and, where the Customer requests any such Excluded Services to be provided, may be chargeable on a time and materials basis in addition to the Charges, at the Company's standard rates.
- 8.2 Remote Support is for use by Customer Representatives only and, unless expressly provided in an Order Form, the Service Desk is not intended to handle calls or other contact from the Customer's End Users in respect of Remote Support.

9 CHARGES

- 9.1 The agreed Remote Support Hours and the Charges for the agreed Remote Support Hours shall be as identified in the Order Form.
- 9.2 The Charges will be invoiced annually in advance with the first invoice issued by the Company on or around the Commencement Date for the Remote Support and annually thereafter.

10 SERVICE LEVELS

- 10.1 Subject to paragraph 10.2, the Company will provide the Remote Support in accordance with the Service Levels set out in this paragraph 10.
- 10.2 The Company will provide the Remote Support in accordance with any Service Levels identified in the Order Form.
- 10.3 **Incidents**

SPECIFIC CONDITIONS O2 – Remote Support

10.3.1 The Company will categorise and log Incidents through the Service Desk using the following Incident Priority Levels as set out in Table 1 and as more particularly described in Table 2 below:

Table 1: Priority Level Overview

Impact Urgency	1 – Organisation Wide	2 – Multiple business functions or single Customer Premises	3 – Single business function	4 – Individual End User
1 – Total Loss of service	P1	P1	P2	P3
2 – Degraded service	P1	P2	P3	P3
3 – Threat to service	P2	P3	P3	P4
4 – Non-urgent	P3	P3	P4	P4

Table 2: Priority Level Examples

Priority		Examples
P1	Critical Incident	Significant revenue, operational or safety impact on the Customer. A total loss of service affecting a single Customer Premises or multiple departments or business functions of the Customer. A service is significantly degraded affecting the entire Customer organisation.
P2	High Risk Incident	A total loss of a service affecting a single department or business function of the Customer. A service is degraded or impacted affecting multiple departments or a single Customer Premises.
P3	Medium Risk Incident	A service is degraded or impacted affecting a single department or business function of the Customer. A service is degraded or a total loss of service for an individual End User.
P4	Minor Incident	Any incident not classified as a P3 or above.

10.3.2 The Company's Tier 3 support engineer will respond to an Incident in accordance with paragraph 4.4.4 within the agreed Incident Response Times set out in Table 3 below depending on the Priority Level for the Incident, unless otherwise set out in the Order Form.

Table 3: Incident Response Times

Priority		Incident Response Time (within Support Hours)
P1	Critical Incident	1 Support Hour
P2	High Risk Incident	4 Support Hours
P3	Medium Risk Incident	8 Support Hours
P4	Minor Incident	3 Business Days

SPECIFIC CONDITIONS X3 – STANDARD OPERATIONAL SERVICES

These Specific Conditions govern the Standard Operational Services that may be provided by the Company under an Order Form, together with any other document or terms and conditions referred to in the Order Form including but not limited to the General Terms & Conditions for the Supply of Products and/or Services (the “**Conditions**”), which shall be deemed to be incorporated into this Contract.

The Standard Operational Services set out under the headings “Change Management”, “Service Desk”, “Event Management”, “Incident Management”, “Major Incident Management”, “Problem Management” shall only benefit the Customer if such Services are referred to as being part of this Contract in the Order Form or the applicable Specific Conditions.

1 DEFINITIONS

1.1 Capitalised terms used in these Specific Conditions have the following meanings for the purposes of these Specific Conditions only:

“Change”	means the addition, modification or removal of anything operationally that could have an effect on the Relevant Services;
“Change Management”	means the process for controlling the lifecycle of all Changes, enabling beneficial operational changes to be made with minimum disruption to the Relevant Services;
“Critical Incident”	means a Priority 1 (P1) Incident as determined in accordance with the Priority levels and Priority Level Examples set out in Table 1 and Table 2 in paragraph 5.2.1;
“Emergency Change”	means a Change that should be introduced as soon as reasonably possible, for example to resolve an Incident;
“Event”	means when specific conditions or thresholds are met or a change of state arises that has significance for the management of the Relevant Services or an alert or notification is created by any Supported Equipment or monitoring system or tool (as appropriate) that may cause an interruption to, or a reduction in, the quality of the Relevant Services if specific actions are not undertaken in each case according to the parameters set in the monitoring system;
“Event Management”	means the process for responding to an Event and managing the lifecycle of an Event in accordance with these Specific Conditions and the Company’s standard operational procedures for its Service Desk;
“Incident”	means an unplanned interruption to the Relevant Services or a reduction in the quality of the Relevant Services and includes any failure of Supported Equipment that has not yet affected the Relevant Services;
“Incident Management”	means the process for managing the lifecycle of all Incidents in accordance with these Specific Conditions and the Company’s standard operational procedures for its Service Desk;
“Incident Notification”	means any notification of an Incident made by the Customer in accordance with paragraph 4.4.1;
“Incident Response Time”	means as defined in Table 3 (Incident Response Times) in paragraph 5.2.2;
“Major Incident”	means, where the Customer has chosen to take the Major Incident Management Services as stated on the Order Form, any Critical Incident that is expected to result in significant disruption to the Customer’s business or otherwise has a significant impact or urgency for the Customer that demands a response beyond the routine Incident Management process and that the Customer therefore chooses to categorise as a Major Incident;
“Major Incident Management Services”	means the process for managing all Major Incidents in accordance with paragraph 4.5, including the appointment by the Company of a dedicated Incident manager;
“Normal Change”	means a Change that is not an Emergency Change or a Standard Change;

“Priority Level”	means the priority level allocated to an Incident by the Company, in accordance with paragraph 5.2.1, based on the information provided by the Customer to the Company at the time of the Incident Notification;
“Problem”	means a cause of one of more Incidents that has been identified from an Incident or series of related Incidents or other reactive sources (for example arising out of a root cause analysis following a Major Incident but not including any proactive measures such as trend reports) and the cause of which is not usually known at the time the Problem is identified;
“Problem Management”	means carrying out further investigation of a Problem and the process for managing the investigation and lifecycle of all Problems in accordance with these Specific Conditions and the Company’s standard operational procedures for its Service Desk;
“Relevant Services”	means as defined in paragraph 4.1;
“Request Fulfilment”	means the process for managing the lifecycle of all Service Requests in accordance with these Specific Conditions and the Company’s standard operational procedures for its Service Desk;
“Service Desk”	means the service desk provided by the Company to act as the single point of contact for the Customer’s Representatives;
“Service Desk Hours”	means 24 hours a day, 7 days a week, 365 days of the year;
“Service Request”	means a formal request from a Customer Representative for a Change and/or something to be provided relating to the Relevant Services;
“Service Request Response Time”	means as provide in accordance with paragraph 5.3;
“Standard Change”	means a Change that is low risk and follows a well-documented procedure or work instruction for both approval (or pre-approval) and implementation;
“Standard Operational Services”	means the Services provided in accordance with these Specific Conditions by the Company to the Customer to support the Relevant Services;
“Support Hours”	means 8am to 6pm on Business Days; and
“Technical Diagnosis”	means the act of identifying the cause of an Incident by investigating and analysing its signs and symptoms, resulting in a conclusion of the reason for the Incident and identifying the steps required to restore the Relevant Services or otherwise resolve the Incident.

- 1.2 All other capitalised terms used in these Specific Conditions that are not defined in paragraph 1.1 have the meanings stated in the Conditions or other applicable Specific Conditions.

2 COMMENCEMENT DATE

- 2.1 The Commencement Date of the Standard Operational Services is the date specified as such for the Relevant Services.

3 MINIMUM TERM

- 3.1 The Minimum Term for the Standard Operational Services is the Minimum Term for the Relevant Services.

4 SERVICE DELIVERABLES

4.1 Relevant Services

The Standard Operational Services will be available to the Customer for those Services that include an on-going managed service provision from the Company and that therefore require a formal mechanism for Incident Management, Change Management and other regular communications between the Customer and the Company (the “**Relevant Services**”) to the extent that the relevant Specific Conditions provide for the relevant element of the Standard Operational Services (Change Management, Event Management, Incident Management and/or Problem Management) under these Standard Operational Services.

4.2 Service Desk

- 4.2.1 The Company will provide a Service Desk to act as the point of contact for handling Service Requests and Incident Notifications in respect of the Relevant Services. The Service Desk will be shared between the Customer and other customers of the Company.
- 4.2.2 The Service Desk is for use by Customer Representatives only and, unless expressly provided in an Order Form or the applicable Specific Conditions, is not intended to handle calls or other contact from End Users.
- 4.2.3 The Service Desk will be available:
 - (a) during the Service Desk Hours, for logging, recording and managing Service Requests and Incident Notifications in relation to the Relevant Services;
 - (b) during the Service Desk Hours, for Diagnosing any Critical Incident (and/or any High Risk Incident that is not limited to being provided during the Support Hours in accordance with Table 3 (Incident Response Times) in paragraph 5.2.1) for any Relevant Service; and
 - (c) during the Support Hours, for Diagnosing any Incident other than an Incident to which paragraph 4.2.3(b) above applies for any Relevant Service.
- 4.2.4 For all Relevant Services, the Company will further provide:
 - (a) an authorisation process to validate the identity of the Customer Representative and the rights of each such Customer Representative in relation to Service Requests and Incident Notifications;
 - (b) a process for categorising the incoming Service Requests and Incident Notifications as Events, Incidents, Problems, Changes and/or Service Requests; and
 - (c) a process for categorising all Incidents with an appropriate Priority Level in accordance with paragraph 5.2.1.

4.3 Event Management

- 4.3.1 Where monitoring expressly forms part of the Relevant Services as provided for in the relevant Specific Conditions for the Relevant Services, an Event ticket will be created by the Company's monitoring system when specific thresholds or conditions are met for the Relevant Services being monitored. The Event will be allocated a priority according to the agreed parameters set in the monitoring system.
- 4.3.2 The Company will:
 - (a) record, classify, diagnose and/or resolve Events as applicable in order to minimise any risk to the Relevant Services;
 - (b) raise an Incident Notification for any service impacting Events and notify the Customer of such Incident promptly, such Incident will be allocated a Priority Level based on the Company's best estimate of the potential impact and urgency at the time of raising the Incident Notification; and
 - (c) contribute to the Company's knowledge management system with diagnosis and/or resolution information, known errors, workarounds and technical information as appropriate to support the management of Events, Problems and Incidents for the Customer.

4.4 Incident Management

- 4.4.1 The Customer may at any time during the Service Desk Hours raise an Incident Notification with the Service Desk either by telephone and/or via an internet portal as directed by the Company from time to time. Critical Incidents must always be raised by the Customer with the Company's Service Desk by telephone.
- 4.4.2 Once the Customer has raised an Incident Notification the Company will:
 - (a) create a record of the Incident Notification and provide an Incident Notification reference number to the Customer;
 - (b) attempt to diagnose the Incident initially by telephone;
 - (c) categorise the Incident in accordance with the priorities in paragraph 5.2.1; and
 - (d) commence the Technical Diagnosis.
- 4.4.3 In providing Incident Management, the Company will use reasonable endeavours to ensure that normal service operation is restored as quickly as possible and the business impact to the Customer is minimised.
- 4.4.4 The Company will:

- (a) notify the Customer of the outcome of the Technical Diagnosis as soon as reasonably practicable, including notification of any next steps being undertaken by the Company to seek to resolve the Incident, which may include a recommended Change;
- (b) use all reasonable endeavours to correctly diagnose and take steps to resolve Incidents in accordance with the Priority Level for that Incident, as soon as reasonably practicable in order to minimise impact to the Relevant Services;
- (c) assign technical ownership of the Incident and allocate the necessary resources and skills to work on the Incident;
- (d) work collaboratively with the Customer as required to restore the Relevant Services as soon as reasonably possible;
- (e) endeavour to provide regular updates in relation to Incidents as reasonably agreed with the Customer; and
- (f) use the outcome of any Incident to contribute to the Company's knowledge management system for the Customer with diagnosis and/or resolution information, known errors, workarounds and technical information as appropriate to support the management of Events, Problems and Incidents for the Customer.

4.5 Major Incident Management

- 4.5.1 A Critical Incident may be upgraded to a Major Incident where it demands a response beyond the routine Incident Management process following discussion and agreement between the Company and the Customer (both acting reasonably).
- 4.5.2 Major Incident Management includes compliance with all obligations for Incident Management in paragraph 4.4 above.
- 4.5.3 In the event of a Major Incident being declared the Company will:
 - (a) assign an Incident manager and ensure he or she is sufficiently empowered to oversee the restoration of the Relevant Services as soon as reasonably practicable;
 - (b) provide Major Incident progress updates at least hourly for the duration of the Major Incident; and
 - (c) provide a Major Incident report within five (5) Business Days of the Major Incident, including a summary of the Incident, the root cause (where established) and any agreed or proposed corrective actions or next steps (whether or not involving a Change or a Variation to this Contract).

4.6 Problem Management

- 4.6.1 Where Problem Management expressly forms part of the Relevant Services as provided for in the relevant Specific Conditions for the Relevant Services, the Company will create and manage a record of any Problems identified and the outcome of any investigations and/or recommendations identified in accordance with paragraph 4.6.2.
- 4.6.2 The Company will use reasonable endeavours to:
 - (a) investigate the underlying cause of a Problem;
 - (b) investigate any potential steps that may be taken by either party (whether or not involving a Change or a Variation to this Contract) to either solve or remove the Problem or prevent further Incidents from happening; and/or
 - (c) seek to minimise the impact of future Incidents that cannot be prevented by having effective workarounds detailed and available to both the Customer's and the Company's service teams.

4.7 Request Fulfilment Process

- 4.7.1 The Customer may at any time during the Service Desk Hours raise a Service Request with the Service Desk either by telephone and/or via an internet portal as directed by the Company from time to time. Service Requests are logged and managed by the Company in accordance with the Company's standard processes.
- 4.7.2 The Company will:
 - (a) fulfil all Service Requests in accordance with the relevant Specific Conditions; and
 - (b) fulfil all Service Requests in accordance with the Service Request Response Times set out in the relevant Specific Conditions if any, otherwise in accordance with paragraph 5.3; and
 - (c) work collaboratively with the Customer as required to ensure timely fulfilment of Service Requests.

4.8 Change Management

4.8.1 The Company will provide an appropriate governance structure for planning, executing and closing Changes that are required to be made to any live and supported Customer environments, systems or applications. Changes are classified as either a Standard Change, a Normal Change or an Emergency Change (each as provided in accordance with paragraphs 4.8.3 to 4.8.5).

4.8.2 On the Customer's reasonable request, the Company will provide an audit trail of all Changes to the Relevant Services made by the Company in order to determine the Change made and the authorisation to make the Change.

4.8.3 Standard Change

(a) For the management of Standard Changes, the Company will:

- (i) work collaboratively with the Customer as required to ensure timely but safe execution of Standard Changes;
- (ii) execute all Standard Changes in a controlled manner in line with any applicable Customer policies and procedures, provided that such policies and procedures have been provided to the Company in writing prior to date on which this Contract has been entered into and approved by the Company; and
- (iii) review any incomplete or failed Standard Changes and provide relevant information and corrective actions.

(b) Standard Changes are, unless otherwise agreed, pre-approved by the Customer and don't require separate formal approval on a case by case basis.

4.8.4 Normal Change

For the management of Normal Changes, the Company will:

- (a) adhere to the obligations for Standard Changes set out in paragraph 4.8.3(a) in respect of any Normal Changes;
- (b) provide preliminary advice to the Customer regarding the likely risk and impact of the Normal Change to the Relevant Services;
- (c) produce a change plan for the Normal Change, detailing:
 - (i) the proposed steps for the Change;
 - (ii) the risks associated with the Change;
 - (iii) the roll back plan; and
 - (iv) proposed scheduling for the Change; and
- (d) seek formal written approval for the Normal Change from the Customer and agree scheduling for the Normal Change with the Customer prior to executing the Normal Change.

4.8.5 Emergency Change

(a) Where the Customer agrees that the Change is an Emergency Change, but where such Change would otherwise be a Normal Change, the Company may proceed with the Emergency Change on verbal approval only from the Customer and will follow with the written documentation for the Change as soon as reasonably practicable following the Change.

(b) For the management of Emergency Changes, the Company will:

- (i) work collaboratively with the Customer as required to ensure timely execution of the Change;
- (ii) seek verbal approval for the Emergency Change (which may be outside of any agreed change approval process for Normal Changes) from the Customer and agree scheduling for the Emergency Change with the Customer; and
- (iii) review incomplete and failed Emergency Changes and provide relevant information and corrective actions.

(c) The Company will not be responsible for any delay in implementing an Emergency Change upon which the resolution of an Incident may be dependent, where the Customer does not provide verbal consent to proceed with such Emergency Change.

5 SERVICE LEVELS

5.1 General

5.1.1 Subject to paragraph 5.1.2, the Company will provide the Standard Operational Services in accordance with the Service Levels set out in this paragraph 5.

5.1.2 The Company will provide the Standard Operational Services in accordance with any Service Levels identified in the Order Form or the relevant Specific Conditions for the Relevant Services.

5.2 Incidents

5.2.1 The Company will categorise and log Incidents through the Service Desk using the following Incident Priority Levels as set out in Table 1 and as more particularly described in Table 2:

Table 1: Priority Level Overview

Impact Urgency	1 - Organisation Wide	2 – Multiple business functions or single Customer Premises	3 – Single business function	4 – Individual user
1 – Total Loss of service	P1	P1	P2	P3
2 – Degraded service	P1	P2	P3	P3
3 – Threat to service	P2	P3	P3	P4
4 – Non-urgent	P3	P3	P4	P4

Table 2: Priority Level Examples

Priority		Examples
P1	Critical Incident	Significant revenue, operational or safety impact on the Customer. A total loss of Service affecting a single Customer Premises or multiple departments or business functions of the Customer. A Service is significantly degraded affecting the entire Customer organisation.
P2	High Risk Incident	A total loss of a Service affecting a single department or business function of the Customer. A Service is degraded or impacted affecting multiple departments or a single Customer Premises.
P3	Medium Risk Incident	A Service is degraded or impacted affecting a single department or business function of the Customer. A Service is degraded or a total loss of Service for an individual End User.
P4	Minor Incident	Any incident not classified as a P3 or above.

5.2.2 The Company will respond to an Incident Notification in accordance with paragraph 4.4.2 within the agreed Incident Response Times below, depending on the Priority Level for the Incident, unless otherwise set out in the Order Form or otherwise provided for in any Specific Conditions.

Table 3: Incident Response Times

Priority		Incident Response Time
P1	Critical Incident	60 minutes
P2	High Risk Incident	4 hours
P3	Medium Risk Incident	8 Support Hours
P4	Minor Incident	3 Business Days

5.3 Service Requests

- 5.3.1 The Company will categorise all Service Requests received via the Service Desk based on the relevant information provided by the Customer at the time of raising the Service Request, as follows:
- (a) **Urgent** means any Service Requests assessed as urgent by the Company (acting reasonably) based on the relevant information provided by the Customer when raising the Service Request (due to issues notified by the Customer including but not limited to possible regulatory obligations to respond to or risk to service or reputation); and
 - (b) **Standard** means any Service Request that is not Urgent.
- 5.3.2 Within the Service Request Response Times below, unless otherwise set out in the Order Form or otherwise provided for in any Specific Conditions, the Company will pick up a Service Request, open a ticket for the Service Request and begin working on the Service Request.

Table 4: Service Request Response Times

Service Request Categorisation	Service Request Response Time
Urgent	1 Business Day
Standard	2 Business Days