



Atech Support

Standard Terms and
Conditions 2021

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Standard Terms & Conditions of Business

1. Interpretation

In these Standard Terms (the "Standard Terms") the following words and expressions shall have the following meanings:

TERM	DESCRIPTION
Additional Service	any additional services to be provided by Atech Support to the Client at the request of the Client pursuant to the terms of the Agreement;
Agreement	the Master Services Agreement entered into between Atech Support and the Client setting out, inter alia, the details of the Services, the Term and the fees payable to Atech Support together with these Standard Terms;
Appropriate Technical and Organisational Measures	means processes and procedures such that having regard to the state of technological development and the cost of implementing them, and the nature of the Personal Data, will ensure a level of security appropriate to the harm that might result from unauthorised or unlawful processing of, or accidental loss or destruction of, or damage to, the Personal Data. Such measures shall comprise the following and any additional measures from time to time notified in writing by the Client to Atech Support: <ol style="list-style-type: none">treating and safeguarding the Personal Data as strictly private and confidential and taking all steps necessary to preserve such confidentiality;using the Personal Data only for the purpose(s) prescribed by the Client and for not any other purposes;minimising, to the fullest extent possible, the disclosure of Personal Data to third parties; (such disclosure to be strictly as is necessary to enable Atech to discharge its obligations to the Client);informing the Client immediately if Atech Support becomes aware of or suspects that Personal Data have been disclosed to an unauthorised person;making the Personal Data available to employees and/or agents strictly on a 'need to know' basis and procuring that all persons to whom it discloses Personal Data are made aware of this obligation and comply with it;copying, reproducing or distributing Personal Data only to the extent necessary to enable the discharge of obligations under these terms and for no other purpose;restoring availability and access to Personal Data following a Personal Data Breach ; and(h) having a process for testing such technical and organisational measures;
Atech Support Representative	Atech Support's Representative for the Services, appointed in accordance with Clause 4.2;
Business Day	any day which is not a Saturday, a Sunday or a bank or public holiday in England;
Claims	damages, liabilities, losses, expenses, costs and claims suffered by a party, whether arising in contract or in tort or otherwise, under or in connection with the Agreement;

Client Data	the Client's Confidential Information and any other information, software or other materials belonging to the Client or provided by the Client to Atech for the purposes of receiving the Services;
Client's Confidential Information	all information, whether in written or any other form, concerning the Client which has been or may be disclosed to Atech Support by or on behalf of the Client in the course of the discussions leading up to or the entering into or performance of the Agreement and which is identified as confidential or is clearly by its nature confidential, including the terms of the Agreement and any information relating to the Client's business, technology, its technical and marketing strategies, the Services and any Additional Services;
Client's Representative	the Client's manager for the Services, appointed in accordance with Clause 6.1;
Data Protection Legislation	the UK Data Protection Legislation and any European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);
Data Subject, Personal Data, Personal Data Breach and Processing	the respective meaning given to such term in the Data Protection Legislation and 'Process' and 'Processed' shall be construed accordingly;
Dispute Resolution	The dispute resolution procedure set out in Clause 16;
Document	includes, without limitation, in addition to 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;
Equipment	the equipment (if any) detailed in the Agreement or agreed in accordance with Clause 15.1 to be purchased by the Client from Atech Support (including any part or parts of it);

- 1.1. Headings in these conditions shall not affect their interpretation.
- 1.2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality). A reference to one gender shall include a reference to the other genders.
- 1.3. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4. A reference to writing or written includes hard copy letters, faxes and e-mail.
- 1.5. Any obligation in the Agreement on a person not to do something includes, without limitation, an obligation not to agree, allow, permit or acquiesce in that thing being done.
- 1.6. Any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.7. References to Clauses are to the clauses of these Standard Terms unless otherwise specified.

2. Application of Standard Terms

2.1. These Standard Terms shall:

- a) apply to and be incorporated into an Agreement in their entirety; and
- b) prevail over any inconsistent terms or conditions in the Master Services Agreement or contained, or referred to, in any Client's confirmation of an order, acceptance of a quotation, or specification or other standard terms or Document supplied by the Client, or implied by law, trade custom, practice or course of dealing.

3. Commencement and Duration

- 3.1. The Services supplied under the Agreement shall be provided by Atech Support to the Client from the date specified in the Master Services Agreement.
- 3.2. Subject to Clause 14, the Services supplied under the Agreement shall continue to be supplied for the duration of the Initial Term as is specified in the Master Services Agreement and, after that, shall continue to be supplied for successive terms of equal duration ("Successive Terms") unless the Agreement is terminated by one of the parties giving to the other not less than the number of months' notice as is specified in the Master Services Agreement prior to the expiry of the Initial Term or a Successive Term as the case may be.
- 3.3. The parties agree that the commencement of the Services will not constitute the transfer of an undertaking for the purposes of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (the "Transfer Regulations").
- 3.4. Notwithstanding Clause 11.5, the Client will indemnify Atech Support against all Claims relating to any employees, workers, contractors, or other staff of any kind of the Client and/or any company in its Group, or that of a partner, service provider, contractor, or sub-contractor of the Client and/or any company in its Group arising out of or in connection with the Transfer Regulations.

4. Atech Support's Obligations

- 4.1. Atech Support shall use reasonable endeavours to meet any performance dates specified in the Agreement, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services.
- 4.2. Atech Support shall appoint the Atech Support Representative who shall have authority to contractually bind the Supplier on all matters relating to the Services. Atech Support shall use reasonable endeavours to ensure that the same person acts as the Atech Support Representative throughout the Services but may replace said representative from time to time where reasonably necessary in the interests of the Atech Support's business.
- 4.3. Atech Support shall:
 - a) ensure that all of its personnel engaged hereunder shall have the necessary skills, expertise and diligence to undertake such work;
 - b) allocate sufficient resources and personnel to ensure it complies with all of its obligations under the Agreement;
 - c) ensure that the Services shall be provided by Atech Support in compliance with all relevant legislation, regulations, codes of practice, guidance and other requirements of any relevant government or governmental agency, from time to time relevant to the provision of such services in the UK;
 - d) comply and ensure that its personnel comply with all applicable laws, regulations, codes of practice and other regulatory licences and permits relating to and in the performance of its obligations hereunder;

- e) obtain and maintain throughout the Term, all third party licences, permits or consents necessary for the performance of its obligations hereunder;
- f) at all times during the Term and for a period of 2 years thereafter, at its own costs, effect with a reputable insurer, satisfactory to the Client, appropriate insurance policies in relation to normal commercial risks and liabilities arising from Atech Support's obligations under the Agreement (including its liability in respect of personal injury, death or damage to property, or loss of work done by Atech Support in the amount of not less than £5,000,000 (five million pounds sterling) for each and every event, together with adequate employer's liability insurance.

4.4. Atech Support will provide the Services, or procure that they are provided, in all respects in accordance with the Client's IT security policies as the same are in force and notified to Atech Support from time to time.

4.5. Subject to being provided with current copies, Atech Support shall use reasonable endeavours to observe and comply (and will procure that its employees comply) with:

- a) the Client's premises security policy;
- b) the Client's health and safety policy; and
- c) all other policies of the Client which apply to persons permitted access to the Client's premises.

5. Atech Support Warranties

5.1. Atech Support warrants to the Client that:

5.2. it has, and will retain throughout the Term, all right, title and authority to enter into the Agreement and to perform all of its obligations under the Agreement;

5.3. it has obtained and will maintain in force all necessary registrations, authorisations, consents and licences to enable it to fulfil its obligations under the Agreement and that Atech Support complies with, and shall continue to comply with Data Protection Legislation;

- a) the personnel who will from time to time provide the Services are all employees of Atech Support or have contracted with Atech Support on terms which include an undertaking to keep all of the Client's Confidential Information acquired during the provision of services to or on behalf of Atech Support confidential, and an assignment to Atech Support of all Intellectual Property Rights created during the provision of services to or on behalf of Atech Support and the waiver of any moral rights.

6. Client's Obligations

6.1. The Customer shall:

- a) co-operate with Atech Support in all matters relating to the Services;
- b) appoint the Client's Representative, who shall have the authority to contractually bind the Client on matters relating to the Services;
- c) provide Atech Support, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, with access to the Client's premises, office accommodation, data and other facilities as reasonably required by Atech Support solely to the extent that this is necessary for Atech Support to have such access in order to provide the Services pursuant to the Agreement.
- d) provide to Atech Support, in a timely manner, such information as Atech Support may reasonably require and ensure that it is accurate in all material respects;
- e) inform Atech Support of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises;
- f) ensure that all information and content provided by them to Atech Support in order for Atech Support to provide the Services shall comply with all relevant legislation and regulations, from

time to time relevant to the provision of such services. In all cases, the costs of such compliance shall be borne by the Client.

- 6.2. If Atech Support's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Client, its agents, subcontractors, consultants or employees, Atech Support shall not be liable for any costs, charges or losses sustained or incurred by the Client arising directly or indirectly from such prevention or delay.
- 6.3. The Client shall not, without the prior written consent of Atech Support, at any time from the date of the Agreement to the expiry of twenty four (24) months after the termination of the Agreement, solicit or entice away from Atech Support or employ (or attempt to employ) or engage any person who is, or has been, engaged as a contractor or an employee of Atech Support in the provision of the Services.
- 6.4. Any consent given by Atech Support in accordance with Clause 6.3 shall be subject to the Client paying to Atech Support a sum equivalent to 100% of the then current annual remuneration of Atech Support's employee or, if higher, 100% of the annual remuneration to be paid by the Client to that employee.
- 6.5. The Client shall ensure they have, of their own accord, entered into Cyber Risk Insurance or equivalent to satisfy their own company protection, requirements and governance and in no way expect this to be covered by Atech or any insurance policy held by Atech.

7. Contract Change Control Procedure

- 7.1. Atech Support and the Client shall discuss any change to the Agreement or a request for either a change to the specification of the Services or for Additional Services (in each case a "Change") proposed by the other and such discussion shall result in either:
 - a) written request for a Change by the Client; or
 - b) written recommendation for a Change by Atech Support; or, if neither the Client nor Atech Support wishes to submit a request or recommendation, the proposal for the Change will not proceed.
- 7.2. Where a written request for a Change is received from the Client, Atech Support shall, unless otherwise agreed, submit a Change Control Note (CCN) to the Client within the period agreed between them or, if no such period is agreed, within five Business Days from the date of receipt of such request for a Change, or inform the Client that Atech Support is not able to comply with such written request for a Change.
- 7.3. A written recommendation for a Change by Atech Support shall be submitted as a CCN direct to the Client at the time of such recommendation.

Each CCN shall contain:

- a) the title of the Change;
- b) the originator and the date of the request or recommendation for the Change;
- c) the reason for the Change;
- d) the full details of the Change, including any specifications and user facilities;
- e) the price, if any, of or associated with the Change;
- f) a timetable for implementation, together with any proposals for acceptance of the Change;
- g) the impact, if any, of the Change on other aspects of the Agreement, including the fees payable to Atech Support, the contractual documentation, staff resources and the impact on project plans or roadmap in terms of delivery timelines;
- h) the date of expiry of validity of the CCN (which shall not be less than 15 Business Days); and
- i) provision for signature of the CCN by the Client and Atech Support.

7.4. For each CCN submitted, the Client shall, within the period of validity of the CCN as set out in Clause 7.4

- a) allocate a sequential number to the CCN;
- b) evaluate the CCN, and as appropriate either:
- c) request further information; or
- d) approve the CCN; or
- e) notify Atech Support of the rejection of the CCN; and
- f) if approved, arrange for two copies of the approved CCN to be signed for and on behalf of the Client and Atech Support. The signing of the CCN shall signify acceptance of a Change by both the Client and Atech Support.

7.5. Once signed by the Client and Atech Support in accordance with Clause 7.5, the Change shall be implemented in accordance with the timetable referred to in Clause 7.4(f) and Atech Support and the Client shall perform their respective obligations on the basis of the agreed amendment.

7.6. The Client's Representative and the Supplier's Representative shall have regular meetings to monitor and review the performance of the Services, to discuss any changes proposed in accordance with this Clause 7 and to discuss the Service Level Agreement set out in the Master Services Agreement. These meetings shall be minuted by both the Supplier's Representative and the Client's Representative and copies of those minutes shall be circulated to, and approved by, both parties.

7.7. The Client shall pay to Atech Support all fees and expenses agreed to be paid pursuant to the terms of any Change Control Notice entered into between the Client and Atech Support on the terms set out in such Change Control Notice and otherwise in accordance with the terms of the Agreement.

8. Charges and Payment

8.1. In consideration of the provision of the Services by Atech Support, the Client shall pay to Atech Support the charges as set out in the Master Services Agreement, and all payments shall be made by the due date specified therein.

8.2. Without prejudice to any other right or remedy that it may have, if the Client fails to pay Atech Support on the due date, Atech Support may:

- a) charge interest on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of Lloyds TSB Bank Plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment and the Client shall pay the interest immediately on demand.;
- b) suspend all Services until payment has been made in full.

8.3. Time for payment shall be of the essence of the Agreement.

8.4. Notwithstanding anything to the contrary in the Agreement, all sums payable to Atech Support under the Agreement shall become due immediately on its termination. This Clause is without prejudice to any other rights or remedies of Atech Support, including the right to claim interest.

8.5. Atech Support may, without prejudice to any other rights it may have, set off any liability of the Client to Atech Support against any liability of Atech Support to the Client.

8.6. With respect to each Subscription Agreement the Client acknowledges and agrees that:

- a) Atech Support enters into such agreement with a third party solely for the purposes of being able to provide the Client with related Services; and
- b) Subject to Clause 14.4, the Client shall pay Subscription Charges to Atech until the Subscription End Date.

8.7. Methods of payment can include Direct Debit, Card Transaction or Bank Transfer, but the final determining factor as to how a Customer can pay Atech for services is based on the credit check, undertaken through CreditSafe Business Solutions Ltd, shown in the table also below.

	Direct Debit	Card Payment	Bank Transfer
UK Clients Payment in arrears Monthly or ad hoc	✓ Requires Creditsafe score >50	✓ Requires Creditsafe score >50	✓
UK Clients Payment in advance Monthly	✓	✓	✗
UK Clients Payment in advance Quarterly	✓	✓	✓
Non UK Clients Payment in advance Monthly	✓	✓	✗
Non UK Clients Payment in advance Quarterly	✓	✓	✓

8.8. The first order, placed by new Customers, will be required to be paid in advance of either goods being ordered, or services commencing. Subsequent invoices will then follow the options available to the Customer based on the credit check.

Payment Examples

UK Client with Creditsafe score >50

- Payment in arrears is available, via direct debit, card payment or bank transfer.
- Ad hoc purchases will be invoiced at time of order, and due for payment within 30 days
- Managed services will be invoiced in line with MSA, typically at the start of the support period, and due for payment within 30 days
- Cloud consumption services will be invoiced in line with cloud providers and due for payment within 30 days

UK Client with Creditsafe score <50

- Payment to be made in advance, via direct debit or card payment
- Ad hoc purchases will be invoiced at time of order, and due for payment prior to goods being released
- Managed services will be invoiced in line with MSA, monthly or quarterly in advance, and due for payment within 30 days, prior to service commencing
- Cloud consumption services will be invoiced monthly in advance and due for payment within 30 days for service to continue. Any true up invoices or credits, based on variable consumption, will be handled at the end of each billing period

Standard Project Payment

Term

- 75% invoiced on order.
- 25% invoiced on project completion (defined by user sign off).

9. Intellectual Property Rights

- 9.1. Subject to Clauses 9.2 and 9.3, both parties acknowledge and agree that all Intellectual Property Rights owned by the other party or a third party as at the date of the Agreement are and shall remain the absolute property of that party or third party.
- 9.2. All Intellectual Property Rights created during the Term by or on behalf of Atech Support in relation to the provision of the Services shall be governed as follows:
- 9.3. the Client Data shall be the property of the Client and all original documents in whatever form which contain that data and information, including any computer tape or disk and any voice recording, shall on request be deposited with the Client (and shall, for the avoidance of doubt, be the property of the Client). Atech Support hereby assigns to the Client with full title guarantee all legal and beneficial right, title and interest in the Client Data (so far as the same may by law be assigned) and the Intellectual Property Rights in and in relation to such Client Data (and the full, exclusive, unfettered world-wide right to use the same for any purpose). For the avoidance of doubt, Atech Support agrees that it may not use such Client Data, except as provided under the terms of the Agreement, without the Client's prior written consent;
- 9.4. all Intellectual Property Rights in Atech Support's systems and related methodologies, other processes and products necessary for Atech Support to perform under the Agreement shall be and remain the property of Atech Support.
- 9.5. All Intellectual Property Rights in all services, products, associated systems and software on the systems owned, operated and/or controlled by or on behalf of the Client are and shall (as between the parties) remain the property of the Client and all goodwill arising in any of the Client's branding or trademarks licensed or provided under the Agreement shall arise solely for the benefit of the Client.
- 9.6. Atech Support hereby grants to the Client a non-exclusive, world-wide licence during the Term to use Atech Support's systems and the Intellectual Property Rights comprised therein and any other Intellectual Property Rights owned by Atech Support that are necessary for the Client to be able to use and otherwise exploit the Services and/or otherwise receive the benefit of the Services provided hereunder and/or exercise any of its rights or fulfil any of its obligations hereunder. Upon expiry of the Term or other termination of the Agreement the licence granted by this clause 9.4 shall terminate with immediate effect.

10. Confidentiality

- 10.1. Atech Support agrees to keep confidential the Client's Confidential Information. Atech Support will not except with the Client's prior written consent use or disclose such information except for the purpose of providing the Services and any Additional Services. The Client's Confidential Information shall only be disclosed to Atech Support's employees and professional advisers where necessary for the performance of their duties and Atech Support shall procure that each party to whom such information is disclosed in accordance with the Agreement is made aware of the obligation of confidentiality and undertakes to comply with this Clause 10.
- 10.2. The Client shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Client by Atech Support, its employees, agents, consultants or subcontractors and any other confidential information concerning Atech Support's business or its products which the Client may obtain (the "Atech Support Confidential Information").
- 10.3. For the avoidance of doubt, the Client's Confidential Information and the Atech Support Confidential Information do not include information which:

- a) is or becomes generally available to the public otherwise than as a direct or indirect result of disclosure by a party or a person employed or engaged by that party contrary to their respective obligations of confidentiality; or
- b) is or was made available or becomes available to a party otherwise than pursuant to the Agreement and free of any restrictions as to its use or disclosure; or
- c) is required by law or any regulatory body to be disclosed.

10.4. The parties shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this condition 10.

10.5. At the end of the Term Atech Support will promptly deliver up to the Client all materials, documents and disks or any other media containing any of the Client's Confidential Information and/or destroy any such material at the Client's written request.

10.6. For marketing purposes, Atech Support maintains a list of past and present customers which it publishes on its web site and in selected sales literature. Subject to prior notification and approval (not to be unreasonably withheld or delayed), the Client grants Atech Support the right to use its name in this way from the date of signing of the Agreement.

11. Liability

11.1. This Clause 11 sets out the entire financial liability of Atech Support (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Client in respect of:

- a) any breach of the Agreement;
- b) the provision of the Services or any part of them;
- c) the supply of any Equipment; and
- d) any representation, statement or tortious act or omission (including negligence) arising under or in connection with the Agreement.

11.2. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

11.3. Nothing in the Standard Terms limits or excludes the liability of Atech Support:

- a) for death or personal injury resulting from negligence; or
- b) for any damage or liability incurred by the Client as a result of fraud or fraudulent misrepresentation by Atech Support;

11.4. Subject to Clauses 11.2 and 11.3, Atech Support shall not be liable for (i) loss of profits; or (ii) loss of business; or (iii) depletion of goodwill and/or similar losses; or (iv) loss of anticipated savings; or (v) loss of goods; or (vi) loss of contract; or (vii) loss of use; or (viii) loss or corruption of data or information; or (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

11.5. Each of Atech Support's and the Client's (save with regards to sums owing pursuant to Clause 8 and the indemnity in Clause 3.4) total liability to the other for Claims whether in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of the Agreement shall be limited:

- a) for direct damage to property, each party's liability will be subject to a limit of
- b) £1,000,000 for any one event or series of connected events;
- c) for any other type of Claim related to the Services, each party's aggregate liability for all such Claims will be subject to a limit equal to the fees received by Atech Support from the Client at the date such Claim is made in connection with those Services which are the subject of the claim (excluding any fees relating to Subscription Agreements, third party products or licences) or £1,000,000, whichever is the greater;

- d) for any type of Claim related to the supply of Equipment, each party's aggregate liability for all such Claims will be subject to a limit equal to the price paid for the Equipment by the Client.

11.6. Without prejudice to the provisions of clause 11.7, if a claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights relating to the Services is made by any third parties (or in the reasonable opinion of the Client or Atech Support is likely to be made), Atech Support, at its own expense and as soon as reasonably practicable and in consultation with the Client shall:

- a) modify the Services (or the infringing part thereof) without reducing the performance or functionality of the same, or replace the Services (or infringing part thereof) by other services of equivalent functionality, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or replaced Services (or any part thereof); or
- b) procure a licence for the Client to use the Services in accordance with the terms of the Agreement; or
- c) take such other action as the Client may reasonably propose to avoid or settle such claim, demand or action.

11.7. Without prejudice to Clause 11.6 and subject to Clause 11.5, Atech Support shall defend, indemnify and keep indemnified the Client and hold the Client harmless forthwith on demand against any liability, damage, expense, loss, claim or costs (including reasonable legal fees) suffered by the Client in respect of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights relating to (or otherwise in respect of the use by the Client of) the Services (or any part thereof) made by any third party (other than in circumstances where the alleged infringement or alleged infringement concerns the use of Client Data). In the event of any such claim the Client shall:

- a) notify Atech Support in writing of any such claim; and
- b) if required by Atech Support, give Atech Support (at Atech Support's own cost) conduct of the defence of such claim and all related settlement negotiations; and
- c) provide Atech Support with reasonable assistance, information, and authority necessary to act in accordance with Clause 11.7(b), all reasonable out-of-pocket expenses incurred by the Client in providing such assistance, information and authority to be reimbursed by Atech Support.

11.8. Subject to Clause 11.5, the Client shall defend, indemnify and keep indemnified Atech Support and hold Atech Support harmless forthwith on demand against any liability, damage, expense, loss, claim or costs (including reasonable legal fees) suffered by the Atech Support in respect of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Rights relating to (or otherwise in respect of the use by Atech Support of) the Client Data (or any part thereof) made by any third party. In the event of any such claim Atech Support shall:

- a) notify the Client in writing of any such claim; and
- b) if required by the Client, give the Client (at the Client's own cost) conduct of the defence of such claim and all related settlement negotiations; and
- c) provide the Client with reasonable assistance, information, and authority necessary to act in accordance with Clause 11.8(b), all reasonable out-of-pocket expenses incurred by Atech Support in providing such assistance, information and authority to be reimbursed by the Client.

12. Client's Data

12.1. Atech Support shall take all necessary steps to ensure that the Client Data which comes into its possession or control in the course of providing the Services is kept secure and in particular Atech Support will not:

- a) use the Client's Data nor reproduce the Client's Data in whole or in part in any form except as may be required by the Agreement;

- b) disclose the Client's Data to any third party or persons not authorised by the Client to receive it, except with the prior written consent of the Client; or
- c) alter, delete, add to or otherwise interfere with the Client's Data (save where expressly required to do so by the terms of the Agreement); and
- d) to the extent that any data or information belonging to the Client is Personal Data and Atech Support Processes such Personal Data on behalf of the Client (the details of which are included in Appendix A), Atech Support will comply with the Data Processing requirements set out in Clause 13 below.

13. Data Processing Requirements

13.1. Atech Support shall at all times:

- a) act only in accordance with the Client's written instructions from time to time regarding the Processing of Personal Data pursuant to the Agreement;
- b) take reasonable steps to ensure the reliability of any of its employees, agents and sub-contractors who may have access to Personal Data and that such employees, agents and sub-contractors have committed to keeping the Personal Data confidential;
- c) take Appropriate Technical and Organisational Measures to protect Personal Data;
- d) not cause or permit Personal Data to be transferred outside the European Economic Area without the prior consent of the Client, (unless required to do so by applicable law), provided always that for the purposes of the Agreement, the European Economic Area shall be deemed to include the United Kingdom);
- e) not disclose Personal Data to any third party in any circumstances other than in compliance with the Client's written instructions or in compliance with a legal obligation;
- f) co-operate with and assist the Client as necessary promptly to enable Data Subjects to exercise their rights under Data Protection Legislation, including without limitation in connection with any subject access requests received from Data Subjects;
- g) co-operate with and provide such information and access to any facilities, premises or equipment from or on which Personal Data is, has been, or is to be processed pursuant to the Agreement as the Client may reasonably require to enable it to monitor compliance by Atech Support with the obligations in these Data Processing requirements;
- h) promptly upon termination or expiry of the Agreement and, at any other time, on request by the Client return to the Client all Personal Data together with all copies thereof in any media in its power, possession or control;
- i) not subcontract any of its obligations under the Agreement regarding the Processing of Personal Data without the prior written consent of the Client;
- j) In the event that Atech is permitted to subcontract its Processing obligations, ensure that any such subcontractor enters into a contract with Atech Support which imposes the same data protection obligations as are set out in this Clause 13, and if such subcontractor fails to fulfil its data protection obligations Atech Support shall remain liable to the Client for the performance of those obligations; and
- k) assist the Client in ensuring compliance with its obligation under Articles 32 to 36 of GDPR taking into account the nature of the processing and the information available to Atech.

13.2. Should Atech Support become aware of a Personal Data Breach, the Client will be notified without undue delay. Full co-operation and assistance shall be provided, in order to assist the Client to notify the Personal Data Breach to the relevant supervisory authority and relevant Data Subjects, as applicable

13.3. Atech Support hereby acknowledges and agrees that all rights, title and interest in Personal Data shall vest and remain vested solely in the Client and that it shall have no rights, title or interest in the Personal Data (other than insofar as such rights are necessary for the provision of the Services).

13.4. Atech Support shall indemnify the Client on demand and shall at all times keep the Client indemnified against each loss, liability and cost arising directly (including, without limitation, each loss, liability and cost incurred as a result of defending or settling a claim) out of any claim against the Client or its agents by any third party arising out of a breach by Atech Support of its obligations under this Clause 13.

14. Termination

14.1. Without prejudice to any other rights or remedies which the parties may have, either party may terminate the Agreement without liability to the other immediately on giving notice to the other if:

- a) the other party fails to pay any amount due under the Agreement on the due date for payment and remains in default not less than fourteen days after being notified in writing to make such payment; or
- b) the other party commits a material breach of any of the terms of the Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or
- c) the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business; or
- d) the other party commences 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 (other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party); or
- e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party); or
- f) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
- g) a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
- h) 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
- i) 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 days; or
- j) 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 (a) to Clause (j) (inclusive).

14.2. On termination of the Agreement for any reason:

- a) the Client shall immediately pay to Atech Support all of Atech Support's outstanding unpaid invoices and interest (if any) and, in respect of Services supplied but for which no invoice has been submitted, Atech Support may submit an invoice, which shall be payable immediately on receipt;
- b) if the Agreement is terminated prior to the expiry of the Term (other than in circumstances where the Client terminates in accordance with this Clause 14), the Client shall pay to Atech Support the balance of all remote support fees owing for the remainder of the Term and the balance of any minimum number of on-site support days not yet utilised by the Client;

- c) the accrued rights and liabilities of the parties as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected;
- d) without prejudice to Clause 10.5, upon expiry or termination of the Agreement, Atech Support shall procure that all documentation, data (including the Client Data) and other material belonging to the Client (and any copies thereof) are either delivered to the Client forthwith or (with the written consent of the Client) destroyed. After expiry or termination of the Agreement, Atech Support shall not use, reproduce, disclose, or use any of such documentation, data and other material.

With respect to Subscription Agreements:

- e) the Client may terminate its subscription in respect of a Monthly Subscription Agreement at the end of any month by giving one week's prior written notice; and
- f) the Client may terminate its subscription in respect of any other Subscription Agreement at the end of the Subscription End Date by giving 90 days prior written notice. Unless such notice is given, the Subscription Agreement will be renewed for a further term of equal duration and the Subscription End Date shall be adjusted accordingly.

14.3. In respect of each Subscription Agreement, if the Agreement terminates prior to the Subscription End Date for any reason whatsoever (including, for the avoidance of doubt, termination by the Client pursuant to this Clause 14):

- a) the parties shall use best endeavours to novate or otherwise transfer the rights and obligations of Atech Support to the Client or the Replacement Supplier as the case may be; and
- b) the Client shall indemnify Atech Support against all Claims it incurs or has incurred under or in connection such Subscription Agreement insofar as they relate to the period following termination of the Agreement (including any Claims incurred as a result of any delay in or failure to transfer Atech Support's rights and obligations pursuant to Clause 14.4.1).

14.4. On termination of the Agreement (however arising), the following clauses, together with such other clauses the survival of which is necessary for the interpretation or enforcement of the Agreement shall survive and continue in full force and effect: Clause 8.2, Clause 8.5, Clause 9; Clause 10; Clause 11; Clause 14.2; Clause .14.4; Clause 15.11; Clause 17 and Clause 27.

15. Supply of Equipment

15.1. No binding contract to supply Equipment shall come into existence between Atech Support and the Client unless stated in the Agreement or, where such Equipment is not so specified, the following procedure is adhered to:

- a) the Client notifies Atech Support in writing of the Equipment required;
- b) Atech Support notifies the Client in writing of the cost of such Equipment;
- c) the Client notifies Atech Support in writing of its acceptance of such quote; and
- d) Atech Support issues a written order acknowledgement to the Client.

15.2. No order set out in the Agreement or which has been acknowledged by Atech Support may be cancelled by the Client, except with the agreement in writing of Atech Support and provided that the Client indemnifies Atech Support in full against all loss (including loss of profit), costs (including the cost of all labour and materials used), damages, charges and expenses incurred by Atech Support as a result of cancellation.

15.3. The price of the Equipment shall be the price stated in the Agreement or, where no price has been stated, the price shall be as stated in Atech Support's acknowledgement of order. No other quoted price shall be binding. All prices are exclusive of delivery, packaging, packing, shipping, carriage, insurance, VAT and other charges and duties (unless otherwise expressly stated).

15.4. Save as expressly set out in these Terms, Atech Support excludes all warranties, conditions or other terms that may be implied into the Agreement whether by law, statute or otherwise in relation to the Equipment. Atech Support gives no warranty, condition or other term whatsoever, either express or implied, including (but not limited to) as to merchantability or satisfactory quality.

15.5. Delivery shall be made during normal business hours (excluding bank or public holidays). Time is not of the essence as to the delivery of the Equipment and Atech Support is not liable for any delay in delivery, however caused.

15.6. Atech Support shall be responsible for any damage, shortage or loss in transit, provided that the Client notifies it to Atech Support within three days of delivery or the proposed delivery date of the Equipment. Any remedy under this clause 15 shall be limited, at the option of Atech Support, to the replacement or repair of any Equipment which is proven to Atech Support's satisfaction to have been lost or damaged in transit. The Client shall be deemed to have accepted the Equipment when the Client has had three days to inspect it after delivery.

15.7. Subject to Clause 15.6, the Equipment shall be at the risk of Atech Support until delivery to the Client at the place of delivery specified in the Agreement or the Supplier's acknowledgement of order. Atech Support shall off-load the Equipment at the Client's risk. Ownership of the Equipment shall not pass to the Client until the later of completion of delivery (including off-loading), or when Atech Support has received in full in cleared funds all sums due to it in respect of the Equipment Upon delivery and until ownership of the Equipment has passed to the Client under Clause 15.7, the Client shall:

- hold the Equipment on a fiduciary basis as Atech Support's bailee;
- store the Equipment (at no cost to Atech Support) in satisfactory conditions and separately from all the Client's other equipment or that of a third party, so that it remains readily identifiable as Atech Support's property;
- not destroy, deface or obscure any identifying mark or packaging on or relating to the Equipment; and
- bear full responsibility for the procurement and cost of insurance of the Equipment for its full price against all risks with a reputable insurer to the reasonable satisfaction of Atech Support, ensure that Atech Support's interest in the Equipment is noted on the policy, and hold the proceeds of such insurance on trust for Atech Support and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

15.8. The Client's right to possession of the Equipment before ownership has passed to it shall terminate immediately if any of the circumstances set out in Clause 14.1 arise or if the Client encumbers or in any way charges the Equipment, or if the Client fails to make any payment to Atech Support on the due date.

15.9. The Client grants Atech Support, its agents and employees an irrevocable licence at any time to enter any premises where the Equipment is or may be stored in order to inspect it, or where the Client's right to possession has terminated, to remove it. All costs incurred by Atech Support in repossessing the Equipment shall be borne by the Client.

15.10. On termination of the Agreement for any reason, Atech Support's rights (but not the Client's rights, save for rights of ownership which have passed pursuant to Clause 15.7) in this Clause 15 shall remain in effect.

15.11. Atech Support may appropriate payments by the Client to such Equipment as it thinks fit, notwithstanding any purported appropriation by the Client to the contrary and may make such appropriation at any time.

15.12. All sums payable to Atech Support in respect of Equipment shall become due immediately on termination of the Agreement. This clause is without prejudice to any right to claim for interest under the law, or any right under the Agreement.

15.13. Atech Support may, without prejudice to any other rights it may have, set off any liability of the Client to Atech Support against any liability of Atech Support to the Client.

16. Dispute Resolution

16.1. The parties shall attempt to resolve any dispute arising out of or in connection with the subject matter of the Agreement in accordance with this Clause 16. Unless otherwise agreed in writing, all discussions shall be conducted without prejudice to the rights of each of the parties and shall be conducted between the representatives of the parties set out at Level 1 below or such other representatives as agreed between the parties, and if not resolved within the time specified below or as extended by agreement between the parties, shall then be escalated and discussed between the representatives of the parties specified at Level 2, or such other representatives as agreed between the parties, until the dispute is resolved or the time period specified below or as extended by agreement between the Parties expires.

Level	Atech Support representative	Client representative	Time for resolution
1	[Account Manager]	[Account Manager]	[3 Business Days]
2	[Managing Director]	[Managing Director]	[3 Business Days]

16.2. Either party at any time and without notice to the other party shall be at liberty to resort to its legal remedies.

16.3. For the avoidance of doubt, the commencement of the dispute resolution process set out in this Clause 16 shall not prevent the parties from commencing or continuing court proceedings and nothing arising from such dispute resolution process will be admissible in any litigation. Each party will bear of its own costs of the dispute resolution process set out in this Clause 16.

17. Exit Plan

17.1. Atech Support shall within 30 days of service of any notice of termination of the Agreement prepare and commence the implementation of a plan for the orderly transition of the Services from Atech Support to the Client or its Replacement Supplier (the 'Exit Plan').

17.2. The Exit Plan shall specify Atech Support's charges for the provision of such Exit Plan assistance which shall be (a) payable in addition the charges for any Services which Atech Support continues to provide during the Exit Plan period; and (b) limited to the actual costs to Atech Support of providing such Exit Plan assistance.

17.3. Exit Plan Assistance shall be provided by Atech Support for up to one (1) month following the termination of the Agreement. If the Client so requests in accordance with the Change Control Procedure, Atech Support shall provide Exit Plan assistance for a further period of up to one (1) month thereafter (or such other period as the parties may agree).

17.4. Atech shall be permitted to retrieve any of its equipment used for the purposes of providing the Services, and the Client shall facilitate Atech Support's free access to its premises for such purposes at any time during the Exit Plan period.

17.5. During the Exit Plan period, Atech Support shall not be liable to the Client for a failure to perform any ongoing obligation to the extent that such failure results from the acts or omissions of the Client, the Replacement Supplier and/or any other third party not under the control of Atech Support.

17.6. If the terms of the Exit Plan are incomplete, unclear or ambiguous, they shall be interpreted and construed by reference to the terms of the Agreement.

18. Force Majeure

18.1. Neither party shall be liable for any delay in performing or partial or total failure to perform any of its obligations under the Agreement (other than payment obligations) if such delay or failure is caused by an Event of Force Majeure and in such circumstances such party shall be entitled to a reasonable extension of time for the performance of such obligations. For the purposes of the Agreement, an "Event of Force Majeure" shall mean fire, explosion, flood, lightning, Act of God, act of terrorism, strikes (except those of a party's own employees), war, pandemic, insurrection, riots, embargoes, container shortages, wrecks or delays in transportation, inability to obtain supplies, raw materials or requirements or regulations of any civil or military authority and any other event or circumstance beyond the reasonable control of a party and which was neither foreseeable nor preventable.

19. Variation

19.1. No modification or variation of the Agreement (or any document entered into pursuant to or in connection with the Agreement) shall be valid unless it is in writing and signed by or on behalf of each of the parties to the Agreement. Unless expressly so agreed, no modification or variation of the Agreement shall constitute or be construed as a general waiver of any provisions of the Agreement, nor shall it affect any rights, obligations or liabilities under the Agreement which have already accrued up to the date of such modification or waiver, and the rights and obligations of the parties under the Agreement shall remain in full force and effect, except and only to the extent that they are so modified or varied.

20. Waiver

- a) A waiver of any right under the Agreement is only effective if it is in writing and it applies only to the circumstances for which it is given. No failure or delay by a party in exercising any right or remedy under the Agreement or by law shall constitute a waiver of that (or any other) right or remedy, nor preclude or restrict its further exercise. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that (or any other) right or remedy.
- b) Unless specifically provided otherwise, rights arising under the Agreement are cumulative and do not exclude rights provided by law.

21. Severance

21.1. If any of the provisions of the Agreement shall be found by any court or administrative body of competent jurisdiction invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired.

21.2. The parties agree, in such circumstances, to attempt to substitute for any invalid or unenforceable provision a valid and enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision.

22. Entire Agreement

22.1. The Agreement, together with the documents referred to in it, constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter.

22.2. Each party acknowledges that, in entering into the Agreement, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) as expressly provided in the Agreement.

22.3. Nothing in this Clause 22 shall limit or exclude any liability for fraud.

23. Assignment

- 23.1. Subject to Clause 23.2, no party may assign, transfer, charge, sub-license or deal in any other manner with the Agreement without the other parties' prior written consent, provided that the Client may assign, transfer, change, sub-licence or deal in any other manner with the Agreement, or sub-contract any of its rights and obligations under the Agreement, to any company within the Client's Group.
- 23.2. Notwithstanding Clause 23.1, Atech Support may sub-contract its rights and obligations under the Agreement.

24. No Partnership or Agency

- 24.1. Nothing in the Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

25. Rights of Third Parties

- 25.1. A person who is not a party to the Agreement has no right under the Agreements (Rights of Third Parties) Act 1999 to reply upon or enforce any term of the Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act. Neither party may declare itself a trustee of the rights under the Agreement for the benefit of any third party.

26. Notices

- 26.1. Any notice or other communication required to be given under the Agreement shall be in writing and shall be delivered personally, or sent by pre-paid first-class post, recorded delivery, by hand, by commercial courier, by fax or by email to the other party and for the attention of the person specified in the Agreement, or as otherwise specified by the relevant party by notice in writing to the other party.
- 26.2. Any notice or other communication shall be deemed to have been duly received if delivered personally, when left at the address and for the contact specified in the Agreement or, if sent by pre-paid first-class post or recorded delivery, at 9.00am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed or if delivered by fax or email they shall be deemed to have been received two hours after sending. In all cases if deemed receipt occurs before 9.00am. on a Business Day the notice shall be deemed to have been received at 9.00am. on that day, and if deemed receipt occurs after 5.00pm. on a Business Day, or on any day which is not a Business Day, the notice shall be deemed to have been received at 9.00am. on the next Business Day.

27. Governing Law and Jurisdiction

- 27.1. The Agreement, and any dispute or claim arising out of or in connection with it or its subject matter, shall be governed by, and construed in accordance with, the law of England and Wales.
- 27.2. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, the Agreement or its subject matter.

Appendix A

Data Processing Details

Nature and Purpose of the Processing:

The provision of Services to client as set out in the Master Services Agreement.

Duration of Processing:

For the duration of the Services as specified in the Agreement.

Types of Personal Data:

Email addresses, phone numbers, names and passwords.

Categories of Data Subjects:

Employees and contractors of the Client.

Customers of the Client.



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