



# SEP2 Terms And Conditions Of Sale

SEP2 Limited

May 22

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# SEP2 LIMITED - TERMS & CONDITIONS

## 1.0 INTERPRETATION

1.1 The definitions in this clause apply in these terms and conditions:

**Conditions:** these terms and conditions, including (unless expressly stated otherwise) the applicable Service-Specific Schedules.

**Contract:** the contract between the Customer and the Supplier for the supply of Goods and/or Services created pursuant to clause 3 of these Conditions.

**Contract Documents, Initial Contract Term and Contract Commencement Date:** are defined in clause 2 of these Conditions.

**Customer:** the firm, company or other entity named as the customer in the Quotation.

**Goods:** the goods to be purchased by the Customer from the Supplier as described in the Quotation.

**Quotation:** a quote for the supply of Goods and/or Services issued by the Supplier to the Customer that is agreed between the parties pursuant to clause 2.1 of these Conditions.

**Services:** the services to be purchased by the Customer from the Supplier as described in the Quotation.

**Service-Specific Schedules:** the schedules attached to these Conditions which set out additional terms applying to some of the Supplier's service/product lines.

**Supplier:** Sep2 Limited, a company incorporated in England and Wales under number 09988870 whose registered office is at 51a St. Pauls Street, Leeds, England, LS1 2TE.

1.2 Unless the context otherwise requires, words in the singular shall include the plural and vice versa. A reference to writing or written includes email. References to clauses are to the clauses of these Conditions and references to paragraphs are to paragraphs of the relevant Service-Specific Schedules.

1.3 Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

## 2.0 CONTRACT FORMATION, COMMENCEMENT AND DURATION

2.1 The issue by the Supplier of a draft Quotation constitutes an offer to contract upon these Conditions, which may only be accepted by the Customer either signing the Quotation where indicated (either by a "wet ink" signature or electronic signature via the Supplier's contract management system) or, if it is not signed for any reason, by the Customer accepting the provision to it of any (or any part of) the Services or Goods described in the Quotation from the Supplier. Acceptance of the Quotation by the Customer as described above creates a Contract between the Customer and Supplier upon the terms of the most recent Quotation issued to the Customer prior to such acceptance, these Conditions and the applicable Service-Specific Schedules (together, "Contract Documents"). The date of the Customer's signature on the Quotation, or the date of commencement of the provision of either Goods or

Services to the Customer if there is no such signature, shall be the "Contract Commencement Date". The parties may at any time mutually agree upon and enter into new or additional Contracts at any time.

2.2 The Contract shall commence on the Contract Commencement Date and shall continue for the period set out in the Quotation, unless terminated earlier in accordance with clause 9 ("Initial Contract Term"). If no such period is set out in the Quotation the Contract shall continue until completion of supply of the relevant Goods and/or Services.

2.3 Where the terms of any of the Contract Documents conflict, the terms contained in the documents listed higher in the list below shall take precedence:

2.3.1 Quotation;

2.3.2 Service-Specific Schedules; and

2.3.3 these Conditions.

2.4 The Contract Documents shall apply to govern the Contract, to the exclusion of any terms or conditions contained in, or referred to in, the Customer's purchase order, confirmation of order, specification or other documentation, and any such terms provided by the Customer shall not form part of or govern the Contract.

2.5 The Supplier shall use reasonable endeavours to perform its obligations under the Contract within the timeframes set out in the Quotation (if any). Time for performance of the Services or delivery of the Goods shall not be of the essence of the Contract.

2.6 The following Service-Specific Schedules shall also apply to the Contract in the following circumstances: Where the Customer purchases Goods, the terms of the 'Resale of Goods' Service-Specific Schedule shall apply; Where the Customer purchases consultancy services, the terms of the 'Consultancy Services' Service-Specific Schedule shall apply; Where the Customer purchases support services, the terms of the 'Support Services' Service-Specific Schedule shall apply; Where the Customer purchases managed services, the terms of the 'Managed Services' Service-Specific Schedule shall apply.

2.7 Where the Contract is in respect of either support services or managed services or both (in each case as described further in the relevant Service-Specific Schedule), at the end of the Initial Contract Term, and on each anniversary thereafter, the Contract shall automatically renew for further successive periods of 12 months, unless either party gives written notice to the other to terminate the Contract in accordance with this clause. Any such notice must be served not less than 30 days prior to the end of the Initial Contract Term, or any anniversary thereof (as applicable), and such notice cannot expire prior to the end of the Initial Contract Term, or (as applicable) any anniversary thereof.

### 3. CUSTOMER'S OBLIGATIONS

3.1 The Customer shall:

3.1.1 co-operate with the Supplier in all matters relating to the Services and appoint a representative who shall have the authority to contractually bind the Customer on matters relating to the Contract ("Designated Contact");

3.1.2 provide in a timely manner such access to the Customer's premises and data, and such office accommodation and other facilities, as requested by the Supplier. The Supplier will comply with the Customer's policies on access to the same that are provided to it in advance of such access. Where the provision of Goods or Services requires the Supplier's

personnel to attend the Customer's premises, the Customer provide a safe working environment for this purpose;

3.1.3 provide in a timely manner such information as the Supplier may request, and ensure that such information is accurate in all material respects; and

3.1.4 be responsible (at its own cost) for preparing the relevant premises for receipt of the Goods/Services and for the provision of all necessary access and facilities reasonably required by the Supplier. If the Supplier is prevented from delivering on the agreed delivery date because no such preparation has been carried out, the Supplier may levy additional charges to recover any further costs incurred by it in relation thereto;

3.1.5 Obtain all necessary permissions and consents which may be required before the commencement of the Contract; and

3.1.6 Comply with such other requirements as may be set out in the Quotation or reasonably requested by the Supplier.

3.2 If the Supplier's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer or the Customer's agents, subcontractors or employees, the Customer shall in all circumstances be liable to pay to the Supplier on demand all reasonable costs, charges or losses sustained or incurred by it.

3.3 The Customer warrants that it has the right, power and authority to:

3.3.1 enter into the Contract and to perform it in accordance with its terms; and

3.3.2 to supply to the Customer any third party software that is specifically identified in the Quotation as being part of this Contract of supply.

## 4. CHARGES AND PAYMENT

4.1 Clause 4.2 shall apply if the Services are to be provided on a time-and-materials basis. Clause 4.3 shall apply if the Goods/Services are to be provided for a fixed price. The remainder of this clause 4 shall apply in either case.

4.2 Where the Services are provided on a time-and-materials basis:

4.2.1 the charges payable for the Services shall be calculated in accordance with the Supplier's standard daily fee rates as amended from time to time;

4.2.2 the Supplier's standard daily fee rates are calculated on the basis of an seven-hour working day worked between the hours of 8.00 am and 6.00 pm on weekdays (excluding weekends and public holidays);

4.2.3 the Supplier shall be entitled to charge at an overtime rate of 150% of the normal daily rate for part days and for time worked by the Supplier's personnel outside the hours referred to in clause 4.2.2 on a pro-rata basis;

4.2.4 the Supplier shall ensure that all Supplier personnel engaged in provision of the Services complete time sheets and shall record the total time spent on the Services, and the Supplier shall use such time sheets to calculate the charges; and

4.2.5 the Supplier shall invoice the Customer monthly for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this clause 4.



4.3 Subject to any contrary provision in the Quotation, where the Goods and Services are provided for a fixed price, the price shall be the amount set out in the Quotation.

4.4 The Quotation will confirm whether the price of Goods and/or Services is payable in advance (or annually in advance) or in arrears. If the price is payable in advance, the Supplier shall not be obliged to commence work in respect of the Goods/Services to which the price relates, until payment has been made.

4.5 Any fixed price contained in the Quotation excludes:

4.5.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the Supplier in connection with the Services;

4.5.2 any applicable delivery/shipping costs; and

4.5.3 VAT (value added tax),

which in each case the Supplier shall add to its invoices, and the Customer will pay (at the appropriate rate in respect of VAT).

4.6 Subject to any contrary provision in the Quotation, the Customer shall pay each invoice submitted to it by the Supplier in full, and in cleared funds, within 14 days of receipt. Time for payment shall be of the essence of the Contract.

4.7 Without prejudice to any other right or remedy that the Supplier may have, if the Customer fails to pay the Supplier on the due date the Supplier may:

4.7.1 charge costs and interest on such sums under the Late Payment of Commercial Debts (Interest) Act 1998 at the applicable rate from time to time in force. Interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment; and

4.7.2 suspend all Services, and any further supply of Goods, until payment has been made in full.

4.8 All payments payable to the Supplier under the Contract shall become due immediately on termination of the Contract, notwithstanding any other provision.

4.9 All amounts due under the Contract shall be paid by the Customer to the Supplier in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law). The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.

4.10 For the avoidance of doubt, if the Supplier provides Goods or Services to the Customer at the Customer's request which are not referred to in a Quotation accepted by the Customer pursuant to clause 2.1 (but otherwise in accordance with these Conditions), the Supplier shall be entitled to invoice, and be paid by the Customer for, such Goods or Services.

4.11 If the Customer's procedures require that an invoice be submitted against a purchase order, the Customer shall be responsible for issuing such purchase order prior to the date of the Supplier's invoice.

4.12 The Supplier does not guarantee that the price of Goods or Services previously provided by it under any Contract shall be maintained in any subsequent Contract. Prices of Goods may change between orders, as may the Supplier's standard daily fee rates.

4.13 Where the Contract is in respect of either support services or managed services or both (in each case as described further in the relevant Service-Specific Schedule):

4.13.1 There shall be an automatic increase in the charges payable by the Customer no more than once in any 12 month period, of the higher of (i) 5%, or (ii) the percentage increase, over the preceding 12 months for which figures are available, in the UK RPI (For the purposes of this clause, "RPI" means the retail prices index used as a measure of inflation in the UK which is published and updated by the Office for National Statistics from time to time); and

4.13.2 Prior to any renewal of the Contract pursuant to clause 2.7, the Supplier may propose an additional price increase (notwithstanding the automatic price increase under clause 4.13.1) to apply as from the end of the Initial Contract Term, and/or subsequently upon any anniversary thereof, on notice to the Customer not less than 60 days prior to the end of the Initial Contract Term, or (as applicable) any anniversary thereof. Subject always to the Customer's right to terminate the Contract under clause 2.7, any such proposed price increase shall automatically apply (and the charges shall be adjusted accordingly) as from the end of the Initial Contract Term, or (as applicable) any anniversary thereof.

## 5. THIRD PARTY SOFTWARE

5.1 Where the Supplier supplies third party software (whether provided via a licence key or access to a portal or otherwise), the Customer's right to use such software is subject to the relevant software licensor's end user licence agreement ("EULA") in respect of such software, which the Customer shall comply with in full. The EULA may be made available on a 'click-wrap', 'shrink-wrap' or other similar basis, or otherwise available from the Supplier on request. The Customer acknowledges and agrees that it shall have no greater rights or remedies against the Supplier in respect of such software, as the Supplier has against the vendor of such software.

## 6. INTELLECTUAL PROPERTY RIGHTS

6.1 Nothing in the Contract shall operate to transfer any existing intellectual property rights from one party to the other, unless otherwise specifically identified in the Quotation. Any new intellectual property rights created by the Supplier in the course of the Contract shall vest in the Supplier upon creation, unless specifically agreed otherwise in the Quotation.

## 7. CONFIDENTIALITY

7.1 Any party (the "Receiving Party") 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 it by the other party (the "Disclosing Party"), its employees, agents or sub-contractors and any other confidential information concerning the Disclosing Party's business or its products which the Receiving Party may obtain. The Receiving Party shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or sub-contractors are made aware of the confidential nature of such confidential material.



## 8. LIABILITY

8.1 Nothing in the Contract excludes the liability of the Supplier for anything which cannot be excluded under applicable law.

8.2 All Services will be provided using reasonable care and skill. Subject to the foregoing, all warranties, conditions and other terms implied by statute or common law are, to the greatest extent permitted by law, excluded from the Contract. Without limitation to the foregoing, the Supplier does not warrant that use of any Goods or third party software shall meet the Customer's expectations or work as intended with any of the Customer's other hardware or software, and the Supplier has no liability to the Customer in respect thereof where the Customer's requirements have not been sufficiently brought to the Supplier's attention prior to the Contract or where the Customer has not followed the Supplier's express advice.

8.3 Subject to clauses 8.1 and 8.2:

8.3.1 the Supplier shall not in any circumstances be liable, whether in tort (including for negligence or breach of statutory duty however arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:

8.3.1.1 loss of profits;

8.3.1.2 loss of business;

8.3.1.3 depletion of goodwill or similar losses;

8.3.1.4 loss of anticipated savings;

8.3.1.5 loss of contract;

8.3.1.6 loss of use;

8.3.1.7 loss or corruption of data or information; or

8.3.1.8 any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

8.3.2 the Supplier shall not in any circumstances have any liability to the Customer if it is prevented from, or delayed in, performing its obligations under the Contract as a result of any act or omission of the Customer, its employees, agents or sub-contractors, and any timescales for provision of the Services shall be amended accordingly.

8.3.3 the Supplier's total liability in contract, tort (including negligence or breach of statutory duty however arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to either (i) in the first year of the Contract, a sum equal to the total price set out in the initial agreed Quotation, or (ii) in the second and any subsequent year of the Contract, a sum equal to the total charges actually paid by the Customer to the Supplier under the Contract in the 12 month period immediately preceding the date of the relevant liability arising.

8.4 The Customer shall indemnify and keep indemnified in full (and on demand) the Supplier against all claims, costs and expenses which the Supplier may incur and which arise, directly or indirectly, from:

8.4.1 the Customer's breach of any of its obligations under the Contract;

8.4.2 any breach of third party intellectual property rights arising from the Supplier's compliance with the Customer's instructions or from the Supplier's reconfiguration of Goods or software in accordance with the Customer's specification; and

8.4.3 any failure by the Customer to enter into any end user licence agreement required in respect of any third party software that is identified in the Quotation as being part of this Contract of supply.

## 9. TERMINATION

9.1 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Contract without liability to the other if:

9.1.1 the other party fails to pay any amount due under the Contract on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;

9.1.2 the other party commits a material breach of any other term of the Contract, which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;

9.1.3 the other party convenes a meeting of its creditors or makes or proposes any arrangement or composition with, or any assignment for the benefit of its creditors;

9.1.4 an order is made by a court of competent jurisdiction or a resolution is passed for the dissolution, winding-up or administration of the other party (other than due to a solvent restructuring);

9.1.5 if a trustee, receiver, administrator or other similar officer is appointed in respect of all or any part of the other party's business; or

9.1.6 the other party is or becomes unable to pay its debts within the meaning of s.123 of the Insolvency Act 1986.

9.2 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of it shall remain in full force and effect. Termination of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.

## 10. FORCE MAJEURE

10.1 The Supplier shall not in any circumstances have any liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract or from carrying on its business due to any act, event, omission or accident outside of the Supplier's reasonable control including, without limitation strikes, lock-outs or other industrial disputes (whether involving the workforce of the Supplier or any other party); failure of a utility service or transport network; power failure; internet downtime or available bandwidth shortage; act of God, war, riot or civil commotion; malicious damage; pandemic; compliance with any law or governmental order, rule, regulation or direction; and accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

## 11. DATA PROTECTION

11.1 For the purposes of this clause 11, “controller”, “processor”, “data subject”, “personal data”, “personal data breach”, “processing” and “appropriate technical and organisational measures” shall have the meanings given to them in the Data Protection Legislation. “Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in, or applicable in, the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

11.2 The Supplier and Customer shall comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party’s obligations or rights under the Data Protection Legislation.

11.3 Where the Supplier processes any personal data disclosed by the Customer as a data controller in the performance of its obligations under the Contract, such personal data shall be processed in accordance with the Supplier’s privacy and GDPR policy which can be accessed at <https://www.sep2.co.uk/gdpr> and <https://www.sep2.co.uk/PrivacyPolicy> respectively.

11.4 The Supplier does not process personal data as processor on behalf of the Customer.

## 12. NOTICES

12.1 Any notice given under this Contract shall be in writing and shall be delivered either:

12.1.1 by sending it by first class, registered post to the other party at its address set out in this Contract (or such other address as may be notified by it in writing to the other party from time to time); or

12.1.2 by email to:

12.1.2.1 [contracts-support@sep2.co.uk](mailto:contracts-support@sep2.co.uk) for the Supplier, and

12.1.2.2 The email address for the Customer shown in the Quotation.

12.2 Any notice which is sent by post shall be deemed to have been received 2 working days after posting, or if sent by email shall be deemed to have been received at 9 am on the working day after it was sent, provided it was sent on a working day (or at 9am on the 2nd working day after it was sent if not sent on a working day) and provided in each case that the sender has not received a notice of send failure from its email system.

## 13. GENERAL

13.1 Waiver. No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

13.2 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. The parties shall negotiate in good faith to amend

such provision so that, to the greatest extent possible, the amended provision achieves the intended commercial result of the original provision.

13.3 Variation. No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on the Supplier unless in writing and signed by a duly authorised representative of the Supplier.

13.4 Entire agreement. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. In entering into the Contract, the Customer does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract, and the Customer shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

13.5 Assignment. The Customer shall not, without the prior written consent of the Supplier, assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract. The Supplier may at any time assign, transfer, charge, subcontract, delegate, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

13.6 No partnership or agency. Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way.

13.7 Third party rights. The Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to third parties to enforce any term of the Contract.

13.8 Governing Law & Jurisdiction. The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the laws of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).

13.9 Non-poaching. The Customer shall not, without the prior written consent of the Supplier, at any time from the Contract Commencement Date to the expiry of 12 months after termination of the Contract, solicit or entice away from the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of the Supplier. The Customer shall not be in breach of this clause 13.9 if it hires an employee or subcontractor of the Supplier as a result of a recruitment campaign not specifically targeted to any employees or subcontractors of the Supplier.

## SERVICE-SPECIFIC SCHEDULE: RESALE OF GOODS

Where the Supplier sells Goods under the Contract, the following terms shall apply.

### 1. DELIVERY OF GOODS AND ACCEPTANCE

1.1 Any delivery of the Goods may be by separate instalments. The Supplier may (at its sole discretion) deliver the Goods to the delivery location set out in the Quotation prior to any



agreed reconfiguration required to be performed by it, and carry out the required reconfiguration on-site.

1.2 The Customer acknowledges that the Supplier does not hold stocks of Goods, and that Goods are supplied direct to the Customer by the Supplier's vendors on a "next available delivery" basis. As such, the Supplier cannot guarantee any particular date or dates for delivery. Subject to the foregoing, the Supplier shall use reasonable endeavours to procure that delivery of Goods shall be within a reasonable time of the Contract being formed in accordance with clause 2.1 of the Conditions. If the Quotation does identify a delivery date, any such date shall be an estimate only, and the Supplier shall use its reasonable endeavours to deliver on such date.

1.3 Unless otherwise stated by the Supplier, delivery shall be made during normal business hours (excluding bank or public holidays). The Supplier may levy additional charges for any deliveries made outside such hours at the Customer's request.

1.4 The Customer shall be deemed to have accepted the Goods if it has not notified the Supplier within 7 days after delivery of the Goods of any defect. In any event the Supplier shall not have any liability to the Customer if:

1.4.1 the defect arises because the Customer failed to follow the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice; or

1.4.2 the Customer alters or repairs the relevant Goods without the written consent of the Supplier; or

1.4.3 the Goods have been damaged or are defective as a result of the improper use of the Goods or use outside of their normal application.

1.5 The Supplier will use reasonable endeavours to pass to the Customer the benefit of any guarantee or warranty which may have been given to the Supplier (rather than the Customer) by the manufacturer of the Goods.

## 2.RISK AND TITLE

2.1 Risk in the Goods shall be with the Customer upon delivery to the Customer at the place of delivery specified in the Quotation. The Supplier shall off-load the Goods at the Customer's risk.

2.2 Title in the Goods shall not pass to the Customer until all payments due under the Contract in respect of those Goods have been made in full, cleared funds.

2.3 Until title in the Goods has passed to the Customer, the Customer shall:

2.3.1 hold the Goods on a fiduciary basis as the Supplier's bailee;

2.3.2 store the Goods (at no cost to the Supplier) in satisfactory conditions and separately from all of the Customer's other equipment or that of a third party, so that it remains readily identifiable as the Supplier's property;

2.3.3 not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods; and



2.3.4 keep the Goods insured on the Supplier's behalf for its full price against all risks with a reputable insurer to the reasonable satisfaction of the Supplier, ensure that the Supplier's interest in the Goods is noted on the policy, and hold the proceeds of such insurance on trust for the Supplier and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

2.4 The Customer's right to possession of the Goods before title has passed to it shall terminate immediately if any of the circumstances set out in clause 9 of the Conditions arise or if the Customer encumbers or in any way charges the Goods, or if the Customer fails to make any payment to the Supplier on the due date.

2.5 Until title of the Goods is transferred to the Customer, the Customer grants the Supplier, its agents, employees and contractors, an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or where the Customer's right to possession has terminated, to remove them. All costs incurred by the Supplier in repossessing the Goods shall be borne by the Customer.

2.6 The Supplier may appropriate payments by the Customer to such Goods as it thinks fit, notwithstanding any purported appropriation by the Customer to the contrary, and may make such appropriation at any time.

### 3. PAYMENT

3.1 Where the Customer wrongfully fails to take delivery of the Goods, or fails to allow the Supplier's personnel to attend on site in order to carry out its obligations under the Contract, the Supplier shall be entitled to invoice the Customer for the price at any time after the Supplier has notified the Customer that the Goods are ready for collection.

### 4. LIABILITY AND REMEDIES

4.1 Any liability of the Supplier for non-delivery of the Goods shall in all circumstances be limited (and this shall be the Customer's sole remedy) to replacing the Goods within a reasonable time or issuing a credit note at the pro rata contract rate against any invoice raised for such Goods.

## SERVICE-SPECIFIC SCHEDULE: CONSULTANCY SERVICES

Where the Supplier provides 'consultancy services' to the Customer, the following terms shall apply.

### 1.PROVISION OF CONSULTANCY SERVICES

The Customer acknowledges that cyber security policies, procedures and trends are constantly evolving in line with technological advancements and the consultancy Services are provided on the basis of the information available to the Supplier at the time of instruction. The Customer shall continually look to improve its security procedures, policies and software and, where advised by the Supplier to implement additional policies or procedures, update existing software or generally conduct business in a more secure way and such advice is not followed, the Supplier shall not be held liable whatsoever for any losses incurred by the Customer that would have been avoided by following such advice.

### 2.PRICE AND PAYMENT

The parties shall use their respective reasonable endeavours to agree the dates upon which the consultancy services will be performed. Once such dates are agreed, if the Customer rearranges or purports to cancel the provision of consultancy Services:

- (i) Less than 2 days prior to the Supplier's agreed date of attendance on the Customer's premises to perform such Services, then the full price for the (originally-agreed) dates shall be payable by the Customer;
- (ii) Less than 7 days (but more than 2 days) prior to the Supplier's agreed date of attendance on the Customer's premises to perform such Services, then 50% of the price for the (originally-agreed) dates shall be payable by the Customer.

# SERVICE-SPECIFIC SCHEDULE: SUPPORT SERVICES

Where the Supplier provides support services to the Customer, the following terms shall apply. Support services shall be provided by default where managed services are purchased by the Customer.

“Support Engineers” means a Supplier engineer who shall provide the support services and, where applicable, will include relevantly-certified individuals.

## 1. PROVISION OF SUPPORT SERVICES

1.1 The Supplier shall provide support services as set out in the Quotation provided always that the support services are provided only in respect of the goods/software/equipment supplied by the Supplier (or as otherwise expressly identified in the Quotation), and support is provided within the hours identified in the table at paragraph 2 below.

1.2 Unless otherwise agreed by the Supplier and Customer in writing, the support services shall be provided from the Supplier’s registered office and shall be provided by a Support Engineer. The Supplier shall provide the support services in accordance with industry best practice ITIL guidelines.

1.3 For the avoidance of doubt, any request under the Customer’s support service provision for services that the Supplier reasonably regards as being consultancy (rather than support) shall be refused; The Customer and the Supplier may however enter into a separate Contract for the provision of such consultancy Services.

## 2. SUPPORT TICKETS AND SERVICE LEVELS AGREEMENTS

2.1 The Customer may log any issues with the Supplier by telephone, email or web-portal (“Support Ticket”) which shall be dealt with by the Supplier in accordance with the service levels identified in the table below.

2.2 The response and escalation times are dependent on the severity level of the Support Ticket as set out in the table below. Upon logging a Support Ticket with the Supplier’s Support Engineer, an initial assessment shall be undertaken by the Supplier and a severity level discussed and agreed. The Customer should retain a record of any Support Ticket number which may be provided by the Support Engineer.

Service Level / Priority	Description	Support Hours	Target Response and Begin to Fix Times	Automatic Escalation Path
1	System Down. Production service or other mission-critical system(s) are down and no workaround is immediately available. This will impact all users	Monday to Sunday (inclusive) 24 hours a day.	Response time - 15 minutes of receipt of the Support Ticket.  Begin to fix within 1 hour of receipt of the Support Ticket.	Support Engineer escalates to a senior engineer if the Support Ticket is outstanding after 1 hour of Begin to fix time.  Senior engineer shall escalate Support Ticket to the vendor if Support Ticket remains outstanding after 5 hours of Begin to fix time.

2				Senior engineer shall escalate Support Ticket to a Supplier director if Support Ticket remains outstanding after 6 hours of Begin to fix time.
	System is operating a degraded service to all users. One of more subsystems are not functioning or are impacting only a subset of users.	Monday to Friday 08:00 - 18:00	Response time - 1 hour of receipt of the Support Ticket.  Begin to fix within 2 hours of receipt of the Support Ticket	Support Engineer escalates to a senior engineer if Support Ticket is outstanding after 4 hours of Begin to fix time (during the support hours).  Senior engineer shall escalate Support Ticket to the vendor if Support Ticket remains outstanding after 10 hours of Begin to fix time (during the support hours).
	All major functionality is working. Non-critical system issues. Impaired operations of some components, but allows the user to continue using the system.	Monday to Friday 08:00 - 18:00	Response time - 4 hours of receipt of the Support Ticket.  Begin to fix within 8 hours of receipt of the Support Ticket	Support Engineer escalates to a senior engineer if Support Ticket is outstanding after 8 hours of Begin to fix time (during the support hours).  Senior engineer shall escalate Support Ticket to the vendor if Support Ticket remains outstanding after 20 hours of Begin to fix time (during the support hours).
4	General enquiries. No service degradation.	Monday to Friday 08:00 - 18:00	Response time - 12 hours of receipt of the Support Ticket.  Begin to fix or escalate as appropriate within 24 hours of receipt of the Support Ticket	Support Engineer escalates to a senior engineer if the Support Ticket is outstanding after 24 hours of Begin to fix time (during the support hours).

## SERVICE-SPECIFIC SCHEDULE: MANAGED SERVICES

Where the Supplier provides a 'managed service' to the Customer, the following terms shall apply.

### 1. PROVISION OF MANAGED SERVICES

1.1 The Supplier shall provide managed services only in respect of the goods/software/equipment supplied by the Supplier (or as otherwise expressly identified in the Quotation).

1.2 Unless otherwise stated in the Quotation, provision of managed services by the Supplier shall include the services listed at paragraphs 1.4 to 1.9 (inclusive) below and any other service agreed between the Supplier and the Customer in writing.

1.3 The Supplier does not warrant that the Supplier's provision of, and the Customer's use of, the managed services will be uninterrupted or error-free.

1.4 Initial health check. As part of the Customer's on-boarding onto the Supplier's managed services, the Support Engineers (defined in the 'Support Services' Service-Specific Schedules) shall conduct an initial health check of the Customer's estate which shall be limited to the Customer's configuration of devices/infrastructure as detailed within the Quotation and associated management servers to ensure that the configuration is in line with best practices. For the avoidance of doubt, the initial health check shall be performed subject to time and available Supplier resources and where this is carried out by the Supplier, the Customer may be provided with recommendations based on the Supplier's expertise.

1.5 Health monitoring of equipment. The Supplier shall use reasonable endeavours to monitor the relevant equipment on a 24x7x365 basis using a dedicated monitoring platform but shall have no liability to the Customer where the Supplier is unable to monitor the Goods due to events outside of its control, such as the monitoring platform being unavailable for any reason. The Supplier shall monitor the following key metrics and any abnormal results shall result in a support ticket being raised with the Supplier (in which case the support ticket shall be dealt with in accordance with the terms of the 'Support Services' Service-Specific Schedules): CPU utilisation; vendor-specific process information; available disk space; RAM and swap memory utilisation; system uptime; and interface status and throughput.

1.6 Configuration backup. The Supplier shall carry out weekly configuration backups of supported equipment within the scope of the service as defined within the Quotation capable of being backed up to ensure that there is an available and sufficient configuration of such equipment to restore in the case of a catastrophic failure of some or all of such equipment, or where there is a problematic configuration change which needs to be reverted to a workable version. Where the backups have failed, a support ticket shall be automatically generated (in which case the support ticket shall be dealt with in accordance with the terms of the support services under the relevant Service-Specific Schedule).

1.7 pro-active patch and upgrade service. The Supplier may from time to time (and where the Supplier considers it necessary) complete minor version upgrades and patch the relevant equipment as a result of any software bug, security vulnerability or requirements of the relevant equipment. Where upgrades and/or patching is required, the Supplier shall agree a mutual date and time for this to occur. The Customer acknowledges and agrees that the Supplier shall only be able to comply with this paragraph 1.7 where such upgrade or



patching is made available by a third party vendor and the Supplier shall have no liability to the Customer where no such upgrade or patch is available.

1.8 Major version upgrade service. The Supplier shall, on an annual basis perform an update to the most recent software or firmware version to the relevant equipment at a time and date mutually agreed with the Customer. For the avoidance of doubt, the update shall be carried out remotely from the Supplier's registered office (or any other location notified by the Supplier). The Customer may request to have on-site Supplier personnel to carry out the update, but this will be subject to additional charges which are to be agreed in writing. The Customer acknowledges and agrees that the Supplier shall only be able to comply with this paragraph 1.8 where such update is made available by a third party vendor and the Supplier shall have no liability to the Customer where no such update is available.

1.9 Change management. The Supplier shall use reasonable endeavours to comply with day-to-day changes to the Customer's environment as requested by the Customer's employees ("Change Requests") in accordance with the target response times in the table below provided always that such Change Requests are limited to the features of the relevant equipment supplied by the Supplier, and the Supplier has sufficient resources available to comply with such Change Requests. The Supplier shall have no liability to the Customer where the Change Request is dependent on the Customer's compliance with advice provided by the Supplier and that advice has not been followed or implemented. In the table below, "Action" means that an engineer will review the change request and either complete the change as requested or respond to the requestor of the change seeking further information necessary to complete the change.

Priority	Description	Response Time (for receipt of Change request)
1. Urgent	Change required in order to provide a workaround for a critical issue	Action within 2 hours
2. Unplanned	Ad-Hoc change that is not part of a pre-defined project	Action within 8 working hours
3. Planned	Change as part of a pre-defined project	Action within 24 working hours

## 2. CUSTOMER OBLIGATIONS

2.1 The Customer shall not store, distribute or transmit any material on its systems in respect of which managed services are provided by the Supplier that:

2.1.1 is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;

2.1.2 facilitates illegal activity;

2.1.3 depicts sexually explicit images and/or

2.1.4 promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion, belief or gender reassignment, or any other illegal activity.

### 3. REPORTING & BUSINESS CONTINUITY

3.1 The Supplier shall provide quarterly reports to the Customer which summarises the Services provided to the Customer in the previous quarter. Notwithstanding the foregoing, the Supplier and Customer shall have quarterly Service review meetings at a location to be mutually agreed. The Service review meetings shall be attended by key contacts of both the Supplier and Customer to be mutually agreed in advance. The purpose of the Service review meetings is to allow either party to provide feedback on the Services.

The Supplier shall implement a disaster recovery plan which sets out the Supplier's approach to ensure business continuity for the Services. The Supplier shall regularly carry out testing of its procedures for this purpose

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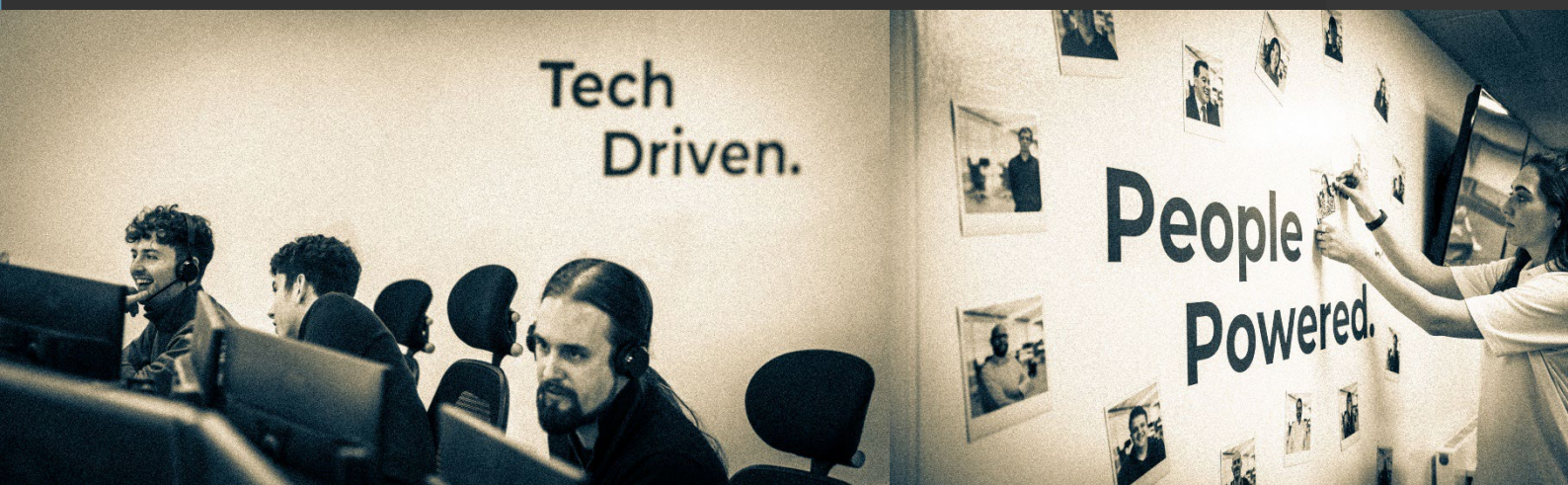
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### Revision history

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