

1. DEFINITIONS AND INTERPRETATION

1.1. In these terms and conditions, the following words will mean:

Affiliate	in relation to each Party, each undertaking that is from time to time a subsidiary undertaking (as defined in Section 1159 of the Companies Act 2006) of a Party, a parent undertaking (as defined in Section 1159 of the Companies Act 2006) of a Party or a subsidiary undertaking of such parent undertaking (excluding the relevant Party);
Agreement	means the legally binding contract between the Parties for the delivery and receipt of the Services consisting of the Call-Off Contract, Service Description and these terms and conditions and any documents referenced in any of the foregoing as being incorporated in the Agreement. Where there is a conflict or inconsistency the following order of precedence shall apply (highest to lowest): a) the Call-Off Contract; b) Service Description; and c) these Terms and Conditions.
Anti-Slavery Policy	Jisc's anti-slavery policy which can be found at https://www.jisc.ac.uk/about/corporate/slavery-and-human-trafficking-statement ;
Applicable Law	all applicable laws, statutes, regulations, decree directives, legislative enactments, orders, binding decisions of a competent Court or Tribunal, rule, regulatory policies, guidelines, codes, other binding restriction, regulatory permits and licences applicable under law which are in force from time to time during the term of the Agreement to which a Party and/or any Processing of Personal Data is subject from time to time;
Bribery Laws	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the Bribery Laws;
Business Day	a day (other than a weekend or public holiday) when banks in London are open;
Call-Off Contract	means the G-Cloud call-off contract agreement (entered into following the provisions of the G-Cloud 15 Framework Agreement) for the provision of Services made between Jisc and the Customer into which these terms and conditions are incorporated;
Charges	the sums payable by the Customer in respect of the Services as set out or referred to in the Call-Off Contract;
Confidential Information	any and all information (however it is conveyed) disclosed in connection with the Agreement, whether before, on or after the Services Commencement Date, where the information: (a) is clearly identified as "confidential" at the time of disclosure (whether or not it is marked as confidential or with similar protective marking) or (b) which ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure, together with any information derived from any of the information referred to in paragraph (a) or (b) above;
Contract Year	any 12-month period following the Services Commencement Date or each succeeding 12-month period;
Controller	has the meaning set out in the UK GDPR;

Customer	means the corporate entity that enters in the Agreement with Jisc, as set out in the Call-Off Contract;
Customer Equipment	the equipment belonging to or used by or on behalf of the Customer to enable it to receive the Services;
Data Protection Legislation	means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction which relates to the protection of individuals with regards to the Processing of Personal Data to which a Party is subject for the purposes of the Agreement, including the Data Protection Act 2018 and the General Data Protection Regulation 2016/679 (EU GDPR) as each is amended in accordance with the Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (as amended by SI 2020 no. 1586) and incorporated into UK law under the UK European Union (Withdrawal) Act 2018, as amended to be referred to as DPA 2018 and the UK GDPR respectively; and (b) any code of practice or guidance published by the Regulator or European Data Protection Board from time to time;
Deliverables	any deliverables provided by Jisc to the Customer in connection with the provision of the Services;
Force Majeure Event	any cause beyond a Party's reasonable control affecting the performance of its obligations under the Agreement;
G-Cloud 15 Framework Agreement	means the framework agreement that governs the relationship between Jisc and Crown Commercial Services for the provision of the Services to the Customer;
Group	in relation to a Party, the Party, its subsidiaries, its holding companies and subsidiaries of such holding companies where subsidiary and holding company have the meanings ascribed in section 1159 of the Companies Act 2006;
Initial Term	the initial term of the Agreement, as set out in the Call-Off Contract;
Intellectual Property Rights	all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world;
Janet	the communications network operated by Jisc to serve UK education, research and other public sector purposes;
Janet Policies	the Janet Acceptable Use Policy, the Janet Security Policy and the Janet Network Connection Policy (with each being referred to as a Janet Policy) found at http://ji.sc/policies ;
Janet Terms	the terms for the provision of the Janet service found at http://ji.sc/policies ;
Jisc	means the Supplier (as defined in the Call-Off Contract);
Modern Slavery Laws	the Modern Slavery Act 2015 and any subordinate legislation made under that Act from time to time together with all applicable anti-slavery and human trafficking laws, statutes, regulations, guidance or codes of

	practice issued by the relevant government department;
Party	means a party to the Agreement and " Parties " will be construed accordingly;
Personal Data	has the meaning given to it in the UK GDPR and for the purposes of these Terms includes Sensitive Personal Data;
Processor	has the meaning set out in UK GDPR;
Processing	has the meaning given to it in the UK GDPR (and Processed shall be construed accordingly);
Renewal Term(s)	means any extension or renewal of the Term in accordance with the Call-Off Contract;
Sensitive Personal Data	means Personal Data that incorporates such categories of data as are listed in Article 9(1) of the UK GDPR and Personal Data relating to criminal convictions and offences;
Service Description	means the service description for the Janet Cloud Connect service as defined in the G-Cloud 15 Framework Agreement;
Service Levels	the service levels set out in the Service Description;
Services	means any and all of the services provided or to be provided by Jisc under the Agreement;
Services Commencement Date	the date on which Jisc will commence to provide the Services to the Customer, as specified in the Call-off Contract;
Service Website	website or webpage (if any) setting out details of the Services, such as service description and service levels and charges, as may be updated by Jisc from time to time. Where such a website / webpage exists, the website / webpage will be referenced in the Call-Off Contract;
Term	the Initial Term together with any Renewal Term(s);
User	any users of the Services pursuant to the Agreement.

1.2. In these terms and conditions, unless the context otherwise requires:

- 1.2.1. references to "Clauses" are to clauses of these terms and conditions;
- 1.2.2. references to a "Party" include that Party's successors and permitted assignees;
- 1.2.3. any phrase introduced by the terms "including", "include", "in particular" or any similar expression will be construed as illustrative and will not limit the sense of the words preceding those terms; and
- 1.2.4. a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

2. SCOPE

- 2.1. The terms of the Agreement apply to the provision of the Services to the exclusion of all other terms and conditions including those which the Customer purports to apply to the supply of the Services.
- 2.2. Where a Service Website exists for the Services, the Customer should check the applicable Service Website regularly for any changes.

3. TERM

3.1. The Agreement will apply from the date on which the Call-Off Contract is signed by all Parties and will continue for the Term unless it is terminated earlier in accordance with the provisions of the Agreement.

3.2. The Agreement will, unless terminated earlier in accordance with the provisions of the Agreement, remain in existence until the expiry of the Initial Term, or where the Agreement is extended in accordance with the Call-Off Contract, until expiry of the relevant Renewal Term.

4. SERVICES

4.1. Jisc will supply the Services in accordance with the Agreement from the Services Commencement Date and following satisfactory testing by Jisc.

4.2. The Call-Off Contract will describe the Services being provided by Jisc and may provide further terms on which they are to be provided. By way of example, if and to the extent acceptance, testing and delivery timetables are relevant to the Services, these will be set out in the Call-Off Contract.

4.3. If Jisc's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Customer, its officers, employees, servants, contractors, subcontractors and/or professional advisers, Jisc will not be liable for:

4.3.1. any costs, charges or losses sustained or incurred by the Customer; or

4.3.2. any failure by it to supply the Services or meet its other obligations under the Agreement,

that arise from such prevention or delay.

4.4. The Customer will be liable to pay reasonable charges for delays, additional work and/or rework required on the part of Jisc as a direct result of the Customer's failure to properly discharge its responsibilities under the Agreement.

4.5. Jisc may from time to time revise the Services, Service Levels or any other provision as follows:

4.5.1. changes to the Services, Service Levels or any other provision which would materially increase the obligations of the Customer under the Agreement or cost to the Customer of receiving the benefit of the Services under the Agreement, or would materially decrease the Customer's rights or remedies will only be made by Jisc after giving a minimum of 30 days prior written notice to the Customer; and

4.5.2. any other change can be made at any time by publishing the changes on the Service Website.

4.6. If the Services includes support from Jisc, then such support will be detailed in the Call-Off Contract, Service Description or specified on the Service Website. Jisc will not be obliged to provide any support:

4.6.1. in respect of any Customer Equipment;

4.6.2. where such support is due to:

- a) use by the Customer of the Services or the Janet network which is not compliant with the terms of the Agreement, Jisc's instructions from time to time or the manufacturer's or licensor's (as the case may be) documentation;
- b) the Customer's negligence, misuse, incorrect use of or loss of use of the Services from whatever cause (other than any act or omission by Jisc), including failure or fluctuation of electrical power;
- c) use of the Services in combination with any equipment or software other than the Customer Equipment or otherwise not designated by Jisc; or
- d) operator error.

4.7. Jisc will be entitled to:

- 4.7.1. change the technical specification of the Services (provided that such changes do not have a materially negative effect on the performance of the Services) where necessary for operational reasons, statutory or regulatory requirements;
- 4.7.2. give the Customer instructions (which the Customer will comply with) which Jisc believes to be necessary for health and safety reasons or for maintaining the quality of the Services; and
- 4.7.3. make alterations to the Services (including without limitation conversions, shifts, reconfigurations and renumbers). Such alterations may result in disruption to the Services although Jisc will use reasonable endeavours to minimise any disruption to the Customer, and where practicable, Jisc will give the Customer as much notice as possible.

4.8. Jisc does not warrant that the Services will be fault free or free of interruptions and the Customer accepts that faults will occur from time to time. The Customer will report such faults as it detects promptly to Jisc using the process set out in the Call-Off Contract, Service Description or specified on the Service Website and providing such details as Jisc may require. Jisc will not be liable for any loss or damages should the Services be interrupted from time to time.

4.9. Jisc may change the conditions or Service Levels relating to the Services in order to reflect contractual changes imposed upon Jisc by its suppliers or any decision, request by or change in the regulatory regime by the relevant regulatory authorities and (where reasonably practicable) Jisc will give at least 30 days written notice to the Customer before the change takes effect.

5. CHARGES AND PAYMENT

- 5.1. The Customer will pay the Charges to Jisc in accordance with and in the manner set out in the Call-Off Contract.
- 5.2. Jisc will issue invoices for the Charges in accordance with the invoicing timetable set out in the Call-Off Contract and, subject to Clause 5.4, the Customer will pay the invoiced amounts to Jisc within the timescales set out in the Call-Off Contract.
- 5.3. All amounts payable by the Customer under the Agreement are exclusive of amounts in respect of value added tax chargeable for the time being (VAT), which will additionally be payable by the Customer.

5.4. If the Customer, in good faith, disputes any invoice, it will promptly following receipt of the invoice (and in any event within 30 days of receipt) notify Jisc in writing. The Parties will then negotiate in good faith to attempt to resolve the dispute promptly. Jisc will provide such evidence as may be reasonably necessary to verify the disputed invoice. Where only part of an invoice is disputed, the Customer will pay the undisputed amount on the due date as set out in Clause 5.2 above.

5.5. If the Customer fails to pay any amount properly due and payable by it under the Agreement which has not been disputed in accordance with Clause 5.4, this will be deemed to be a material breach for the purposes of Clause 15.4.1 (Termination) and Jisc will additionally have the right to:

- 5.5.1. charge interest on the overdue amount at the rate of 4 per cent per annum above the base rate for the time being of the Bank of England accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment; and
- 5.5.2. on giving a minimum of 5 Business Days written notice, suspend the provision of the Services until such amounts have been paid in full by the Customer. During such period of suspension Jisc will be entitled to continue charging the Customer for the Services that, but for the suspension, would have been provided by Jisc.

5.6. Save where the Customer's non-payment relates to a bona fide dispute raised in accordance with Clause 5.4, the Customer will not have any right to withhold, or any right of set-off, with respect to payments due to Jisc under the Agreement.

6. OBLIGATIONS OF THE PARTIES

6.1. In providing the Services, Jisc will:

- 6.1.1. perform the Services in accordance with the Service Levels, with reasonable care and skill and in accordance with good practice in Jisc's industry;
- 6.1.2. obtain and at all times maintain all necessary licences and consents required by Jisc to provide the Services; and
- 6.1.3. maintain in force, with a reputable insurance company, such insurances, such as professional indemnity insurance, employers' liability insurance and public liability insurance, as it determines, at its discretion, are appropriate to cover normal business risks relating to its businesses generally.

6.2. In receiving the Services, the Customer will:

- 6.2.1. follow Jisc's reasonable instructions;
- 6.2.2. provide Jisc with any requested and/or required information to deliver and/or support the Services, including provision of appropriate and reasonable engineering support on reasonable notice where necessary for purposes of Jisc supplying the Services;
- 6.2.3. only use the Services in the manner contemplated by the Agreement or specified on the Service Website;

- 6.2.4. where the Call-Off Contract, Service Description or Service Website sets out limitations regarding Users that can access and use the Services, comply with those limitations;
- 6.2.5. be responsible on an ongoing basis for ensuring that (i) the Customer, its officers, employees, servants, contractors, subcontractors and/or professional advisers; and (ii) Users use the Services in accordance with the Janet Policies and Janet Terms as may be amended by Jisc from time to time;
- 6.2.6. provide Jisc with reasonable access at reasonable times to its premises, where necessary for the purpose of Jisc supplying the Services;
- 6.2.7. where the Services involves Jisc making equipment available to the Customer, take reasonable care of that equipment and only use it in accordance with any manufacturer's instructions notified to the Customer and in the manner permitted by Jisc;
- 6.2.8. where any Customer Equipment is used in connection with the Services, that such Customer Equipment is programmed, equipped, compatible with and connected for proper use of the Services in accordance with Jisc's reasonable instructions. The Customer acknowledges and agrees that it will be responsible for the adequacy, repair and maintenance of the Customer Equipment;
- 6.2.9. ensure that any other equipment connected to or used with the Services must be connected and used in accordance with any published instructions and any safety or security procedures applicable to the use of that equipment;
- 6.2.10. implement and maintain all internal cabling that connects Jisc (and or its suppliers) equipment with theirs;
- 6.2.11. be responsible for ordering all services the Customer requires from third party suppliers to receive the benefit of the Services and for paying their charges; and
- 6.2.12. where the Services involves the Customer making data available to Jisc, take all necessary steps and maintain all necessary licences and consents required to enable the Customer to disclose the data to Jisc and Jisc to use that data in providing the Services. The Customer warrants that such data does not, and will not, infringe the Intellectual Property Rights of any third party.
- 6.3. In the event the Customer fails to comply with any of its obligations under Clause 6.2, or Jisc reasonably considers that the Customer's use of the Services is causing or will cause damage or disruption to the use of the Services by Jisc or other customers, Jisc reserves the right to suspend access by the Customer or Users to the Services.
- 6.4. Where Jisc makes available to the Customer any equipment or software provided by a third party as part of the Services, the Parties acknowledge that the warranties given by the manufacturer of that equipment or software will apply to that equipment or software and that Jisc does not itself give any warranty or representation, express or implied, as to the

fitness, quality, condition, design, performance or operation of that equipment or software.

- 6.5. Jisc may disconnect (or require the Customer to disconnect) any Customer Equipment from the Services if, and for so long as, the Customer Equipment or the Customer's use of it:
 - 6.5.1. is not, or appears to Jisc likely not to be in compliance with Applicable Law; or
 - 6.5.2. causes or appears likely to cause:
 - a) death of or any personal injury to any person; or
 - b) material damage to property; or
 - 6.5.3. infringes the Intellectual Property Rights of any third party; or
 - 6.5.4. materially impairs the Janet network or the quality of the Services available to the Customer or any other customers or users.

7. WARRANTIES

- 7.1. Each Party warrants, represents and undertakes that:
 - 7.1.1. It has full capacity and authority to enter into and perform the Agreement;
 - 7.1.2. there are no actions, or regulatory investigations pending or, to that Party's knowledge, threatened that might affect the ability of that Party to meet its obligations under the Agreement;
 - 7.1.3. it has obtained and will for the duration of the Agreement, maintain all licences, rights, permissions, and consents required lawfully and properly to perform its obligations under the Agreement;
 - 7.1.4. in relation to the Agreement and its subject matter, neither it nor any of its employees, sub-contractors or agents or others performing services on its behalf has done (or agreed to do) or will do (or agree to do) anything which constitutes a breach by that Party of the Bribery Laws;
 - 7.1.5. it will and require that each of its sub-contractors will, at all times during the Term comply with Modern Slavery Laws and Anti-Slavery Policy; and
 - 7.1.6. it will not engage in any activity, practice or conduct which would constitute either:
 - a) a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
 - b) a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017.

8. SECURITY AND ACCESS

- 8.1. Jisc and the Customer will use reasonable endeavours to implement and maintain appropriate organisational and technical security measures against:
 - 8.1.1. unauthorised access to the Services;

8.1.2. accidental loss, destruction or modification of, or damage to, data transmitted via the Services.

8.2. To the extent permitted by Applicable Law, Jisc may:

8.2.1. examine transmissions made via the Services where Jisc reasonably suspects that these transmissions breach the Agreement, or are of a nature likely to cause damage or distress to anyone, or are otherwise in breach of Applicable Law;

8.2.2. analyse transmissions and traffic data for legitimate research or service improvement purposes; and

8.2.3. remove (or otherwise cause not to be transmitted onwards via the Services) any transmissions which, in its reasonable opinion, is of the nature described in Clause 8.2.1 above.

8.3. Jisc will provide a copy of this material to any authority where required under Applicable Law. Other than in these circumstances, Jisc will treat this material as confidential to the Customer and will take reasonable care that it is not disclosed to a third party unless authorised by the Customer.

9. SERVICES SUSPENSION

9.1. Jisc may in its sole discretion suspend the provision of the Services or any part of them, including access by the Customer or Users to the Services, immediately until further notice (and the Customer will remain liable for all Charges accrued during such period of suspension) if:

9.1.1. the Customer fails to comply with any of its obligations under Clause 6.2;

9.1.2. Jisc:

- a) is obliged to comply with an order, instruction or request of a court, government agency, emergency services organisation or other competent administrative or regulatory authority; or
- b) needs to carry out emergency or scheduled maintenance to the Services; or
- c) believes that use of the Services by the Customer is causing, or may cause, disruption or damage to Janet or leads or may lead to any other circumstance which Jisc may reasonably wish to avoid; or
- d) has reason to believe the Services are being used in a manner which breaches or may breach any of the Customer's obligations under the Call-Off Contract.

9.2. In the event that Jisc exercises its right to suspend the Services under Clause 9.1 above, it will, whenever reasonably practicable (and other than in the case of emergency maintenance), give 10 Business Days' prior written notice of that suspension to the Customer stating the grounds of the suspension and its expected duration. Where any suspension is made in accordance with Clause 9.1 then Jisc will use reasonable endeavours to minimise the effect of and the duration of the suspension.

9.3. If Jisc suspects that the Services are being used for activities which are not in accordance with Applicable Law or are otherwise in breach of the Agreement, then:

9.3.1. Jisc may suspend the Services to prevent these activities;

9.3.2. Jisc will inform the Customer immediately at the time of suspension;

9.3.3. Jisc will supply that evidence to the Customer in writing as soon as is reasonably practicable after that evidence comes within Jisc's possession;

9.3.4. the Customer will use all reasonable endeavours to investigate such activity; and

9.3.5. Jisc will provide further information and materials as the Customer reasonably requests to facilitate an investigation.

9.4. In the event of suspension of the Services under the provisions of Clauses 9.1 or 9.3 above all sums invoiced by Jisc and not the subject of a bona fide dispute raised in accordance with Clause 5.4 will become immediately payable.

10. INTELLECTUAL PROPERTY

10.1. Except as expressly set out in the Agreement:

10.1.1. the Customer will not by virtue of the Agreement acquire title to or rights in any Intellectual Property Rights:

- a) of Jisc (and its third party licensors) including in the Services and Deliverables; and
- b) created or acquired by Jisc in the course of providing the Services; and

10.1.2. Jisc will not by virtue of the Agreement acquire title to or rights in any Intellectual Property Rights of the Customer (and its third party licensors).

10.2. Jisc hereby grants to the Customer a non-exclusive, world-wide, non-sub-licensable, non-transferable, and royalty free licence to use the Deliverables as required to enjoy the benefit of the Services in accordance with the Agreement.

10.3. The Customer hereby grants to Jisc a non-exclusive, world-wide, sub-licensable (to the extent required for performance of the Services), non-transferable, and royalty free licence to use the materials, data and other assets made available by the Customer to Jisc in connection with the Agreement to the extent required in connection with the supply of the Services.

10.4. The licences granted under Clauses 10.2 and 10.3 will terminate immediately upon termination of the Agreement for any reason.

11. INFORMAL DISPUTE RESOLUTION

11.1. The Parties agree that in the event of a dispute they will first attempt to resolve the matter through good faith discussions and the production of an agreed improvement plan. If the matter is not resolved it will be escalated to higher levels of management via the management contacts as agreed between the Parties in writing. If the dispute is not resolved through discussion the Parties will use a mutually agreed

alternative dispute resolution process prior to resorting to litigation as a last resort.

12. DATA PROTECTION

12.1. Where a party acts as a Controller in respect of any Personal Data Processed under or in connection with the Agreement, it will comply with its respective obligations under the Data Protection Legislation and it shall only use such Personal Data for the purposes of performing its obligations under the Agreement.

12.2. The parties acknowledge that nothing in the Agreement purports to appoint either party as a Processor for and on behalf of the other in respect of any Personal Data and neither party anticipates that the other will, and neither party shall, act as the other party's Processor under any circumstances, unless that party has been expressly appointed as Processor by the other party. Such appointment shall be conditional upon that party satisfying the other party's due diligence process and agreeing with the other party, in good faith, a set of Processor obligations that comply with the Data Protection Legislation.

13. CONFIDENTIALITY

13.1. Each Party agrees to keep confidential and not to disclose to any third party any Confidential Information (excluding information which is or becomes public knowledge other than as a result of the default of the recipient) and to use any such Confidential Information only for the purposes of the Agreement and in accordance with these terms or as required by law.

13.2. Nothing in the Agreement will prohibit or limit either Party's use of Confidential Information (i) previously known to it without obligation of confidence, (ii) independently developed by or for it, (iii) acquired by it from a third party which is not, to its knowledge, under an obligation of confidence with respect to such information, or (iv) which is or becomes publicly available through no breach of the Agreement.

13.3. The following circumstances will not constitute a breach of the obligations of confidentiality contained in this Clause 13:

13.3.1. disclosure of Confidential Information by either Party when required to do so by Applicable Law or to any Court of competent jurisdiction or any government agency or regulatory body lawfully requesting the same; or

13.3.2. disclosure of Confidential Information by either Party to its and its Affiliates' officers, employees, servants, contractors, subcontractors and/or professional advisers to the extent necessary to enable that Party to perform, enforce or benefit from any of its rights or obligations under the Agreement provided that Party will ensure that each of its and its Affiliates' officers, employees, servants, contractors, subcontractors, contractors and professional advisers to whom Confidential Information is disclosed is aware of its confidential nature and complies with this Clause as if it were a Party.

14. LIABILITY

14.1. Nothing in the Agreement limits or excludes:

14.1.1. A Party's liability for death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);

14.1.2. A Party's liability for fraud or fraudulent misrepresentation by it or its employees;

14.1.3. The Customer's liability to pay the Charges due and payable to Jisc;

14.1.4. A Party's liability for any other matter in respect of which liability cannot by applicable law be limited or excluded.

14.2. Subject to Clause 14.1 and without prejudice to Clause 14.3, each Party's aggregate liability to the other in respect of all claims arising out of or in connection with the Agreement (whether for breach of contract, in negligence or any other tort, under statute or otherwise) in each Contract Year will be limited to a sum equal to 100% of the total Charges paid in aggregate under the Agreement during the preceding Contract Year or, if the Agreement is still within the first Contract Year, the average monthly Charges paid under the Agreement multiplied by 12.

14.3. Subject to Clause 14.1, neither Party will be liable to the other Party whether in tort, contract, misrepresentation (whether innocent or negligent) or otherwise for: (i) loss of profits; (ii) loss of business; (iii) depletion of goodwill or similar losses; (iv) loss of anticipated savings; (v) loss of use; (vi) loss or corruption of data or information; (vii) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

14.4. The Customer acknowledges that Jisc's ability to deliver the Services (and any associated Deliverables) in the manner and in the timescales required by the Agreement are contingent upon the Customer and its third party suppliers properly and expeditiously performing the roles and responsibilities allotted to them under the Agreement and generally co-operating with and providing such information and assistance to Jisc and its subcontractors as Jisc may reasonably require in order to deliver the Services and any associated Deliverables. Jisc will have no liability under the Agreement where the Customer or its third party suppliers fails in the foregoing responsibilities, and any timescales will be automatically extended by such period as Jisc can demonstrate that it was delayed from progressing with the Services due to such failure.

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

15. TERMINATION

15.1. Without prejudice to any other rights or remedies that Jisc may have, Jisc may terminate the provision of all, or any part of, the Services on not less than 6 months' notice in writing to the Customer in which case the Customer will pay to Jisc all arrears of Charges in respect of the relevant Services up to the date of its termination.

15.2. The Customer may terminate the Agreement in accordance with any termination provisions in its favour in the Agreement.

15.3. Jisc may terminate the Agreement with immediate effect:

15.3.1. if the Customer fails to pay any amount due within 30 days of its due date, provided that Jisc has

issued a minimum of one written reminder in respect of such late payment; or

Clauses 5, 6, 10, 11, 12, 13, 14, 16 and 17.

- 15.3.2. if the Customer does any act or thing which in Jisc's reasonable opinion damages, or is reasonably likely to damage, the integrity and reputation of Jisc, Janet or the Services.

15.4. Without prejudice to any other rights or remedies, either Party may terminate the Agreement with immediate effect by notice in writing to the other Party if:

- 15.4.1. the other Party or, in the case of the Customer, any User commits a material breach of any provision of the Agreement which is incapable of remedy or which is capable of remedy but which is not remedied within 30 days after receipt of a notice specifying the breach and requiring it to be remedied; the other Party is in material breach of the Agreement which is incapable of remedy; or
- 15.4.2. the other Party ceases trading, or becomes apparently insolvent, or has a trustee in sequestration appointed, combines with its creditors, or has a liquidator, receiver or administrator appointed (or an application is made either for the appointment of an administrator or for an administration order or notice of intention to appoint an administrator is given over all or any of its assets) over all or any of its assets other than for the purposes of a solvent amalgamation or reconstruction, or undergoes any analogous act or proceeding under foreign law to any of those mentioned in this Clause 15.4.2; or
- 15.4.3. if Jisc or any of its suppliers is obliged to terminate this Agreement in order to comply with an order, instruction or request of Government, an emergency services organisation, a court of law, tribunal or other competent administrative or regulatory body.

15.5. On termination of the Agreement howsoever caused:

- 15.5.1. Jisc will cease to provide the Services;
- 15.5.2. the Customer will return to Jisc any equipment provided to the Customer within 10 Business Days of termination and at the Customer's expense and risk or dispose of same in accordance with Jisc's instructions; and
- 15.5.3. subject to Clause 5.4, the Customer will immediately pay to Jisc all of Jisc's outstanding unpaid invoices, and in respect of Services supplied but for which no invoice has been submitted, Jisc may submit an invoice, which will be payable immediately on receipt.

15.6. Termination of the Agreement for any reason will:

- 15.6.1. be without prejudice to any obligation or right of any Party which has accrued prior to such termination (or will thereafter accrue in respect of the period before such termination); and
- 15.6.2. not affect any provision of the Agreement which is expressly or by implication intended to come into effect on, or to continue in effect after, such termination, which includes this Clause 15 and

16. GENERAL

16.1. Subject to Clause 16.2, neither Party will at any time assign or transfer all or any of its rights or obligations under the Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).

16.2. Jisc may at any time by written notice assign or transfer all or any of its rights or obligations under the Agreement to another member of its Group. Jisc will be entitled to sub-contract any of its obligations, and sub-licence any of its rights under the Agreement without the Customer's consent.

16.3. Any notices given in relation to the Agreement will be given for the attention of the relevant person set out in the Call-Off Contract, which may include email, and be sent to the address or email address of the recipient set out in the Call-Off Contract or another address or email address which the recipient may designate by notice given in accordance with the provisions of this Clause, with, in the case of Jisc, a copy by email to legal@jisc.ac.uk.

16.4. A notice will be deemed to have been received: if delivered personally, at the time of delivery; in the case of pre-paid first-class post, 3 Business Days from the date of posting; and in the case of email, upon the email reaching the recipient's server, provided that (i) if deemed receipt occurs before 9am on a Business Day, the notice will be deemed to have been received at 9am on that Business Day; and (ii) if deemed receipt occurs after 5pm on a Business Day, or on a day which is not a Business Day, the notice will be deemed to have been received at 9 am on the next Business Day.

16.5. Where notices are to be served by email, the email must contain the following wording in the subject matter field: "Notice served in accordance with the terms of the Agreement for Janet Cloud Connect between Jisc Services Limited and [insert Customer name]".

16.6. Other than in respect of the Customer's obligations to pay the Charges, neither Party will be liable to the other as a result of any delay or failure to perform its obligations under the Agreement if and to the extent such delay or failure is caused by a Force Majeure Event. If such Force Majeure Event prevents a Party from performing any of its obligations under the Agreement for more than 30 days, the other Party will have the right, without limiting its other rights or remedies, to terminate the Agreement with immediate effect by giving written notice to the first Party.

16.7. The Agreement constitutes the entire agreement between the Parties and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject matter of the Agreement. Each of the Parties acknowledges and agrees that it does not enter into the Agreement on the basis of and does not rely, and has not relied upon, and will have no remedy in respect of, any statement or representation or warranty or other provision made, given or agreed to by the other Party (whether negligently or innocently made) except those expressly repeated or referred to in the Agreement and the only remedy available in respect of any misrepresentation or untrue statement made to it will be a claim for breach of contract under the Agreement. Nothing in this Clause will operate to limit or exclude liability for fraud.

16.8. If any provision of the Agreement (or part of any provision) is found by any court or other authority of competent jurisdiction

to be invalid, unenforceable or illegal, the other provisions will remain unaffected and in force.

- 16.9. Any failure to exercise or any delay in exercising a right or remedy provided by the Agreement or at law or in equity (and/or the continued performance of the Agreement) will not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. A waiver of a breach of any of the terms of the Agreement must be in writing and will not constitute a waiver of any other breach and will not affect the other terms of the Agreement.
- 16.10. No variation to the Agreement be effective unless it is agreed in writing and signed by authorised signatories for both Parties.
- 16.11. Nothing in the Agreement will be construed as constituting or evidencing any partnership, contract of employment or joint venture of any kind between either of the Parties or as authorising either Party to act as agent for the other. Neither Party will have authority to make representations for, act in the name of or on behalf of, or otherwise to bind the other Party in any way.
- 16.12. No third party is entitled to the benefit of the Agreement under the Contracts (Rights of Third Parties) Act 1999. The right of either Party to vary or terminate the Agreement will not be subject to the consent of any third party.
- 16.13. The Agreement may be entered into by the Parties on separate counterparts, which taken together constitute one single agreement between the Parties.

17. GOVERNING LAW AND JURISDICTION

- 17.1. The Agreement, any non-contractual obligations arising out of or in connection with the Agreement and the relationship between the Parties, will be governed by and interpreted in accordance with the laws of England and Wales.
- 17.2. Each Party irrevocably submits to the exclusive jurisdiction of the English courts over any claim or matter arising under or in connection with the Agreement.