

Managed SD-WAN Terms and Conditions

Version 2.0
15 March 2025

These Terms and Conditions form part of your Agreement with Jisc for the Services.

This Agreement is effective from the Effective Date.

IT IS AGREED as follows:

1. INTERPRETATION

1.1 In this Agreement, the following words will mean:

Acceptance Tests	those objective tests conducted by the Customer that when passed confirm that the Customer accepts the Services and that the Services are ready for use save for any minor non-conformities;
Access Line	a circuit connecting the site(s) to the core network of the Subcontractor or Jisc;
Agreement	these Terms and Conditions together with the Cover Letter and any recitals and Schedules;
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 this Agreement to which a Party and/or any Processing of Personal Data is subject from time to time;
Broadband One	an internet access service, as described in Schedule 1 (Services description);
BTnet	an internet access service, as described in Schedule 1 (Services description);
Business Day	a day (other than a weekend or public holiday) when banks in London are open;
Charges	the charges payable by the Customer for the Services as set out in this Agreement;
Confidential Information	(a) this Agreement, and in respect of each Party, all information and data of whatever nature whether disclosed orally, in writing or by any other means which relates to a Party's (or any group company's) trade secrets, know-how, research, developments, technical and business information relating to products, methods and processes, Jisc's, existing or potential customers and personnel whether or not designated as confidential information but which by its nature is confidential; (b) notes, reviews, analysis, reports and other information derived from any of the information in paragraph (a) above; and information designated as confidential or commercially sensitive or which might reasonably be considered as such;
Contract Year	any 12-month period following the Effective Date or each succeeding 12-month period;
Cover Letter	the cover letter which refers to these Terms and Conditions;
CPE; Customer Premises Equipment	any equipment (including software embedded in or run on such equipment) connected to the Customer's Services. This may include CPE provided, maintained or managed by Jisc and/or the Customer's owned and managed CPE where a "wires only" service is purchased;
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	(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 this 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 ICO or European Data Protection Board from time to time;
Edge Device	the security device(s) provided as part of the Services (which, for the avoidance of doubt, constitute Jisc Equipment);
Effective Date	the date on which the Cover Letter is signed by the Customer and a signed copy is received by Jisc;
End of Life	any hardware or software that is no longer supported by the manufacturer, vendor or supplier and is incapable of cost-effective upgrade or update to a supported version;
End User Access	the physical connection between a site and the broadband network which enables the User to connect to the internet;
EULA	the end user licence agreement annexed to this Agreement as Part 1 of Schedule 5 (Subcontractor Acceptable Use Policy and EULA);
GDPR	Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;
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;
ICO	the UK Information Commissioner (including any successor or replacement);
Incident	an unplanned interruption to, or a reduction in the quality of, the Services or particular element of the Services;
Initial Term	the initial term of the Agreement, as set out in the Cover Letter;
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;
IP Address	a unique number on the internet of a network card or controller that identifies a device and is visible by all other devices on the internet;
Janet	the communications network operated by Jisc to serve UK education, research and other public sector purposes;

Janet Policies	the Janet Acceptable Use Policy found at: (https://community.jisc.ac.uk/library/acceptable-use-policy); the Janet Security Policy found at: (https://community.jisc.ac.uk/library/janet-policies/security-policy); and the Janet Network Connection Policy found at: (https://community.jisc.ac.uk/library/network-and-technology-policies/janet-network-connection-policy) (with each being referred to as a Janet Policy);
Jisc	the entity defined in the Cover Letter;
Jisc Equipment	any equipment and related software owned by Jisc or a Subcontractor which is used to deliver the Services;
Jisc Service Desk	the service desk that the Customer can contact for support services;
Managed CPE	CPE owned and provided by Jisc for use with the Services;
Minimum Guaranteed Download Speed	the minimum guaranteed download speed for a particular Access Line provided to the Customer when the Customer orders the Services;
MS Equipment	Jisc Equipment and Customer Equipment that the Customer uses with the Services and that Jisc has confirmed it is able to manage as part of the Services;
NTU	the socket where the Customer's wiring, equipment or existing qualifying data service is connected to the Access Line;
Permitted Country	a country, territory or jurisdiction that is either: (a) within the UK or the European Economic Area; or (b) outside of the UK or European Economic Area but which is the subject of an adequacy determination by the UK Secretary of State or the European Commission (as applicable);
Regulator	the ICO and any other independent public authority which has jurisdiction over a Party, including any regulator or supervisory authority which is responsible for the monitoring and application of the Data Protection Legislation;
Renewal Term	has the meaning set out in the Cover Letter;
Schedule	a schedule appended to the Cover Letter which is part of this Agreement;
Sensitive Personal Data	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;
Services Commencement Date	has the meaning given in the Cover Letter;
Service Coverage Period	any such period as occurring on a Working Day during Working Hours
Service Levels	the service levels set out in Schedule 2 (Service Levels) ;
Service Management Boundary	for Services that do not utilise BTnet, the Service Management Boundary is the physical ethernet interfaces on the Edge Device(s); for Services that utilise BTnet, the Service Management Boundary is defined in Clause 12.2;

Services	any and all of the services provided or to be provided by Jisc under this Agreement as set out in Schedule 1 (Services description);
Subcontractor	any third party that Jisc enters into a sub-contract with to provide the Services;
Subcontractor AUP	the policy set out in Part 2 of Schedule 5 (Subcontractor Acceptable Use Policy and EULA), or as notified to the Customer by Jisc from time to time, with which the Customer must comply to use the Services;
Term	the term of this Agreement including the Initial Term and any Renewal Terms;
Terms and Conditions	these terms and conditions;
Ticket	the unique reference number provided by Jisc for an Incident;
User	any person who is permitted by the Customer to use or access the Services;
Working Day	any day other than a Saturday or Sunday or public holiday in England and Wales;
Working Hours	between 8:00 and 18:00 on a Working Day.

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.

1.2 In the event of any conflict between these Terms and Conditions, Cover Letter and the other Schedules, the following order of precedence will apply:

1.2.1 the Cover Letter;

1.2.2 these Terms and Conditions;

1.2.3 the other Schedules.

2. COMMENCEMENT AND TERM

2.1 The Customer will confirm its acceptance of the Agreement by signing the Cover Letter and sending it to Jisc. The Agreement will come into existence on the Effective Date.

2.2 The Cover Letter sets out the Term of the Agreement.

3. SERVICES

3.1 Jisc will provide the Services in accordance with the Service Levels.

3.2 If Jisc's performance of its obligations under this Agreement is prevented or delayed by any act or

omission of the Customer, its agents, subcontractors, consultants or employees Jisc will not be liable for:

- 3.2.1** any costs, charges or losses sustained or incurred by the Customer; or
- 3.2.2** any failure by it to supply the Services that arise from such prevention or delay.
- 3.3** Where Jisc is required to link to or utilise a non-Jisc or non-Subcontractor provided network to enable the provision of the Services and there is a subsequent failure to the third party network which causes disruption to the Services, Jisc will have no responsibility to the Customer relating to Jisc's performance or inability to perform the Services and the Service Levels will not apply.
- 3.4** The Customer will be liable to pay reasonable charges for delays, additional expenses, additional work and/or rework required by Jisc as a direct result of the Customer's failure to properly discharge its obligations under this Agreement.
- 3.5** The Services include support services from Jisc. Jisc will not be obliged to provide any support:
 - 3.5.1** in respect of any Customer Equipment;
 - 3.5.2** outside the Service Management Boundary (e.g., issues on Customer machines regarding operating system, coding languages and security settings);
 - 3.5.3** where such support is due to:
 - (a)** use by the Customer of the Jisc Equipment, the Services or the Janet network which is not compliant with this 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 damage to the Jisc Equipment from whatever cause (other than any act or omission by Jisc), including failure or fluctuation of electrical power;
 - (c)** use of the Services or Jisc Equipment in combination with any equipment or software other than the Customer Equipment or otherwise not designated by Jisc;
 - (d)** relocation of the Jisc Equipment by any person other than Jisc or a person acting under Jisc's instructions;
 - (e)** any support or maintenance to the Jisc Equipment provided by any third party (other than a Subcontractor);
 - (f)** any modification or upgrade to the Jisc Equipment not authorised by Jisc; or
 - (g)** operator error.
- 3.6** Jisc may revise the Services, Service Levels or any other provision as follows:
 - 3.6.1** changes to the Services, Service Levels or any other provision which would materially increase the obligations of the Customer under this Agreement or cost to the Customer of receiving the benefit of the Services under this Agreement, or would materially decrease the Customer's rights or remedies will only be made by Jisc after giving at least 30 days' notice to the Customer;
 - 3.6.2** any other change can be made at any time by publishing the changes on Jisc's website.

4. CHARGES AND PAYMENT

- 4.1** The Customer will pay the Charges together with any expenses payable in respect of the Services, as set out in the Cover Letter and elsewhere in this Agreement.
- 4.2** The Charges are subject to confirmation as there may be additional installation or other costs which are particular to the installation site and/or the Customer's requirements. Any additional charges will be promptly notified to the Customer by Jisc.
- 4.3** Jisc reserves the right to amend the Charges, including without limitation the amount, nature and type of Charges, from time to time at its own discretion. Jisc will give notice of a minimum of two calendar months of any increase in the Charges. If the Customer does not agree to the increased Charges, it may give notice to Jisc to terminate the Agreement within one calendar month of receiving notice of the increased Charges. Termination will be effective on the day that the increased Charges would otherwise apply.
- 4.4** Jisc will issue invoices in accordance with the Cover Letter.
- 4.5** In consideration of the supply of the Services by Jisc, subject to Clause 4.6 below, the Customer will pay the invoiced amounts within 30 days of receipt of the invoice to a bank account nominated in writing by Jisc.
- 4.6** If the Customer, in good faith, disputes any invoice, it will promptly following receipt (and in any event within 5 Business Days) notify Jisc in writing. The Parties will then negotiate in good faith to attempt to resolve the dispute promptly and if not resolved, either Party may invoke the Dispute Resolution Procedure at Clause 19. Jisc will provide such evidence as may be reasonably necessary to verify the disputed invoice. Where only part of an invoice is disputed, the undisputed amount will be paid on the due date as set out in Clause 4.5 above.
- 4.7** All amounts payable by the Customer under this 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.
- 4.8** If the Customer fails to pay any amount properly due and payable by it under the Agreement, this will be a material breach for the purposes of Clause 24.4.1 (Termination), and Jisc will additionally have the right to:
- 4.8.1** 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
 - 4.8.2** on 5 Business Days' written notice (in the absence of receipt of a disputed invoice notice from Customer issued in accordance with Clause 4.6 above) suspend the provision of the Services until such amounts have been paid in full by the Customer and Jisc will be entitled to continue charging the Customer for the Services during such period of suspension.
- 4.9** Save where the Customer's non-payment relates to a bona fide dispute, the Customer will not have any right to withhold, or any right of set-off, with respect to payments due to Jisc under this Agreement.
- 4.10** Jisc reserves the right to charge the Customer for the following:
- 4.10.1** Investigating and resolving Incidents that the Customer reports where Jisc finds no Incident

or that the Incident is primarily caused by something for which neither Jisc nor its Subcontractor(s) is responsible;

- 4.10.2** Restoring the Services if the Services have been suspended where such suspension is primarily caused by the Customer; and
 - 4.10.3** Expediting provision of the Services at the Customer's request where the Customer requests an early Services Commencement Date.
 - 4.10.4** Migrating the Services from another communications provider to Jisc, where applicable;
 - 4.10.5** De-installation charges if the Customer terminates this Agreement during the Initial Term; and
 - 4.10.6** Abortive visit charges where an appointment for work at a site is agreed and the engineer arrives within the appointment slot but is unable to carry out the work at, or gain access to, the site, due to acts/omissions of the Customer.
- 4.11** Where Jisc installs the Services, Jisc/Subcontractor may be required to request a permit under the Traffic Management Act 2004 ("**TMA**"). If the Customer misses or changes an appointment date and Jisc/ Subcontractor is unable to complete provision of the Services within the period of the TMA permit, the Customer will pay Jisc for any additional TMA permit charges, as part of the Excess Construction Charges ("**ECCs**").

5. JISC OBLIGATIONS

- 5.1** In providing the Services, Jisc will:
- 5.1.1** perform the Services with reasonable care and skill and in accordance with good practice in Jisc's industry;
 - 5.1.2** obtain and at all times maintain all necessary licences and consents required by Jisc to provide the Services, and comply with all applicable laws in relation to the performance of the Services;
 - 5.1.3** hold all data supplied by the Customer to Jisc in relation to the Services (the **Customer Data**) in safe custody at its own risk, maintain the Customer Data in the condition in which it was provided until returned to the Customer (if applicable to the Services), and not dispose or use the Customer Data other than in accordance with the Customer's written instructions or authorisation; and
 - 5.1.4** maintain in force, with a reputable insurance company, professional indemnity insurance, employers' liability insurance and public liability insurance to cover the liabilities that may arise under or in connection with this Agreement.

6. CUSTOMER OBLIGATIONS

- 6.1** The Customer will:
- 6.1.1** be responsible on an ongoing basis for ensuring that both it and its officers, employees, contractors and agents use the Services in accordance with the Janet Policies as may be amended from time to time (save that no change will result in a material detriment to the

Customer's use of the Service or in any increases to the Charges);

- 6.1.2** provide Jisc with any information and materials as Jisc may reasonably request in order to provide the Services and will use reasonable endeavours to ensure that such information is accurate and complete;
- 6.1.3** allow Jisc or its Subcontractor to set up any specialist equipment at the Customer's site which is required for performance of Jisc's obligations hereunder;
- 6.1.4** ensure that the LAN protocols and applications the Customer uses are compatible with the Services;
- 6.1.5** carry out the Acceptance Tests for the Services within five Business Days after receiving notice from Jisc to do so;
- 6.1.6** provide reasonable assistance to and comply with reasonable requests from Jisc/Subcontractor relating to the Services;
- 6.1.7** complete any preparation activities that Jisc may reasonably request to enable the Customer to receive the Services promptly and in accordance with any reasonable timescales;
- 6.1.8** take up or remove any fitted or fixed floor coverings, ceiling tiles and partition covers or provide any openings in buildings required to connect Jisc Equipment to appropriate telecommunications facilities in time to allow Jisc to undertake any necessary installation or maintenance services (provided reasonable notice is given for maintenance services);
- 6.1.9** carry out any work that may be required after installation to make good any minor cosmetic damage caused during installation or maintenance;
- 6.1.10** be responsible for the Customer's usage of the Services, whether or not Jisc has applied any usage limit or is able to advise the Customer at any particular time if the Customer has exceeded any applicable usage limit;
- 6.1.11** ensure that a suitable and safe working environment is provided for Jisc/Subcontractor to carry out the installation;
- 6.1.12** provide Jisc/Subcontractor with access to the Customer's site and systems during the Service Coverage Period and, if necessary, outside these hours for the installation, implementation, de-commissioning, removal and ongoing maintenance and support of the Services, including providing Jisc with details of all information and access requirements needed to access the Customer's site within a reasonable time prior to Jisc/Subcontractor attending a Customer site and ensuring that an appropriate Customer contact is available to escort Jisc/Subcontractor representatives at the site as required;
- 6.1.13** comply with, and ensure that its Users comply with, the Subcontractor AUP. If there is a serious breach of the Subcontractor AUP, Jisc may report the Customer and provide the Customer's personal information, including Personal Data, to the relevant law enforcement agency;
- 6.1.14** ensure the provision of appropriate and reasonable engineering support on reasonable notice at the time required in order to enable the migration onto the Janet network;
- 6.1.15** 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;

- 6.1.16** obtain and maintain all necessary consents, licences, permissions and authorisations that are required for the installation and provision of the Services to the Customer at the site, including consents for alterations to buildings or entrance to property required from local authorities, landlords or owners for:
 - (a)** the installation of Jisc Equipment; or
 - (b)** the use of the Services over the Customer's network or at a site;
 - 6.1.17** ensure that all necessary use and access rights set out in Clause 2 are maintained for Jisc/ Subcontractor at all times throughout the provision of the Services;
 - 6.1.18** ensure that the Customer's network and all applications conform to relevant industry standards and provide written confirmation to Jisc upon reasonable request;
 - 6.1.19** provide Jisc with any information that is reasonably requested of the Customer by any regulatory body, legal authority or government entity within the UK in connection with regulatory, administrative, legal or lawful interception requests (provided the Customer is able to disclose under law and contract);
 - 6.1.20** retain responsibility for all cabling and associated costs within the Customer site environment.
 - 6.1.21** if the Customer is transitioning its existing services to Jisc, provide any information or access Jisc reasonably requests (provided the Customer is not legally prevented from disclosing), including but not limited to inventory lists, specifications, software licence information, network diagrams, details of third party contracts.
- 6.2** The Customer shall not make any unauthorised alteration or modification of any Services.

7. SERVICE PROVISION OBLIGATIONS

- 7.1** Where the Customer becomes aware of an Incident:
- 7.1.1** the Customer will report it to the Jisc Service Desk;
 - 7.1.2** Jisc will give the Customer a Ticket;
 - 7.1.3** Jisc will Inform the Customer when it believes the Incident is resolved and will close the Ticket:
 - (a)** (if the Customer confirms that the Incident is resolved) within 24 hours of such confirmation; or
 - (b)** if Jisc has contacted the Customer and the Customer has not responded within 1 Working Day of Jisc's contact; and
 - 7.1.4** if the Customer confirms that the Incident is not resolved within 1 Working Day after having been contacted in accordance with Clause 7.1.3(b), the Ticket will remain open and Jisc will continue to work to resolve the Incident.
- 7.2** If an Incident occurs and Jisc, acting reasonably, determines that the Incident is not within the Service Management Boundary and the Incident has not been caused by Jisc or its Subcontractor, the Incident will no longer be Jisc's responsibility to resolve.
- 7.3** Where an Incident is primarily caused by the Customer's Equipment Jisc will not be responsible for

resolution of the Incident. If Jisc performs any repair activities in these circumstances and discovers, based on reasonable evidence, that the Incident is primarily due to malfunctioning of the Customer's Equipment, Jisc's standard professional services day rates will apply.

7.4 The Customer will:

- 7.4.1** report Incidents to the Jisc Service Desk and will not report Incidents directly to a Subcontractor;
- 7.4.2** inform Jisc of any technical changes or planned works that may impact the Services by alerting the Jisc Service Desk to the change so Jisc can complete necessary evaluation and impact assessments;
- 7.4.3** be responsible for resolving Incidents that are outside of the Service Management Boundary;
- 7.4.4** be responsible for provision, maintenance and management of all cabling and associated patching and rectifying any Incidents in any cable, connector or interface between the Jisc Equipment and any Customer Equipment; or in any equipment or device that is not provided by Jisc;
- 7.4.5** provide, maintain and manage adequate power at all Customer sites. Power must terminate all the Jisc-provided equipment. Jisc will have no responsibility for failure to provide the Services or for any shortfall in the quality of the Services arising from problems with the electricity supply or the operational environment;
- 7.4.6** will provide and maintain proper environmental and operational conditions for the efficient working and maintenance of the Jisc Equipment;
- 7.4.7** be responsible for providing up-to-date name(s) and contact details of the individual(s) who are authorised to act on behalf of the Customer for service management matters;
- 7.4.8** comply with the provisions of any software licences provided with or as part of the Services, Customer Equipment and Jisc Equipment;
- 7.4.9** if third party software is required in order to operate the Services, be responsible for ensuring that it has the appropriate number and type of software licences available and that the software is available in an appropriate format, and that any applications (other than ones provided by Jisc as part of the Services) are compatible with the Services;
- 7.4.10** where applicable, ensure the confidentiality, security and proper use of all valid User access profiles, passwords and other systems administration information used in connection with the Services and:
 - (a)** as soon as reasonably practicable, terminate access for any person who is no longer a User;
 - (b)** maintain a list of current Users and provide a copy of such list to Jisc within five Working Days following Jisc's request;
 - (c)** inform Jisc as soon as reasonably practicable if a User's ID or password has, or is likely to, become known to an unauthorised person, or is being or may be used in an unauthorised way;
 - (d)** take all reasonable steps to prevent unauthorised access to the Services;
 - (e)** satisfy Jisc's security checks if a password is lost or forgotten; and
 - (f)** change any or all passwords or other systems administration information used in connection with the Services if Jisc requests; and

7.4.11 where dual power supplies are able to be used on the Customer's site(s), provide dual redundant power feeds to the rack where possible to ensure power resilience.

- 7.5** The Services may be designated by Ofcom or another regulatory body to be "Regulated Services" and therefore Jisc/Subcontractor may be required to comply with the applicable regulations. If a legal or regulatory intervention or ruling prevents the continued provision of a "Regulated Service" or materially changes the "Regulated Service" so that it is no longer consistent with the purpose of the Agreement, Jisc will promptly commence good faith discussions with the Customer regarding an alternative service or on an appropriate migration away from the Services (where applicable).
- 7.6** Jisc will not be responsible for failure to or delay in supplying the Services if another supplier delays or refuses the supply of a telecommunications service to Jisc and no alternative service is available at reasonable cost.

8. JISC EQUIPMENT

8.1 The Customer will:

- 8.1.1** take reasonable care of the Jisc Equipment and keep the Jisc Equipment in a safe manner in accordance with any reasonable instructions provided by Jisc and in any event will take such care of the Jisc Equipment as the Customer would for its own equipment;
- 8.1.2** comply with reasonable requests by Jisc for physical or remote access to the Jisc Equipment for the purpose of maintaining the Jisc Equipment or the Services or otherwise as required by Jisc/ Subcontractor for legitimate purposes; and
- 8.1.3** notify Jisc immediately of any loss or damage to the Jisc Equipment setting out the nature and circumstances of the damage.

8.2 Unless it has Jisc's written consent, or 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 the Customer will:

- 8.2.1** not (and will not allow anyone else other than Jisc/Subcontractor to) sell, let, dispose of, charge, modify, maintain, remove, interfere with, make attachments to or seize the Jisc Equipment or do anything else which prejudices Jisc's ownership rights in the Jisc Equipment;
- 8.2.2** not move or relocate the Jisc Equipment or any part of it from the site(s);
- 8.2.3** ensure that the owner of any Customer site will not claim ownership of the Jisc Equipment, even where the Jisc Equipment is fixed to the site(s); and
- 8.2.4** not remove, tamper with or obliterate any words or labels on the Jisc Equipment;

8.3 The Customer will pay Jisc costs and expenses reasonably incurred as a result of any such move or relocation in accordance with Clause 8.2.2.

8.4 Any alterations or attachments made in accordance with Clause 8.2.1 will be deemed part of the Jisc Equipment.

8.5 The Customer will:

- 8.5.1** not use the Jisc Equipment for any purpose other than for receiving the Services;

- 8.5.2** effect and maintain suitable insurance in respect of all relevant risks relating to the Jisc Equipment including damage, theft and loss, and at Jisc's request evidence such insurance.
- 8.6** Jisc Equipment will always remain Jisc's property and risk in Jisc Equipment will pass to the Customer upon delivery, whether the Jisc Equipment has been installed.
- 8.7** The Customer will reimburse Jisc for any losses or, costs or other sums arising directly from the Customer's use or misuse of the Jisc Equipment or where the Jisc Equipment is damaged, stolen or lost, except where the loss or damage to the Jisc Equipment is a result of fair wear and tear or caused by Jisc/Subcontractor.
- 8.8** The Customer will ensure that the Jisc Equipment appears in Jisc's name in the Customer's accounting books.
- 8.9** Where there is a threatened seizure of the Jisc Equipment, or an insolvency event applies to the Customer, the Customer will immediately provide Jisc with notice and Jisc/Subcontractor may take action to repossess the Jisc Equipment.
- 8.10** Jisc may modify, substitute, renew or add to the Jisc Equipment from time to time, in its sole discretion.

9. CUSTOMER EQUIPMENT

- 9.1** The Customer will:
- 9.1.1** ensure that any Customer Equipment that is connected to the Services or that the Customer uses, directly or indirectly, in relation to the Service is:
- (a) connected using the applicable network termination point, unless Jisc consents to connection by another means;
 - (b) adequately protected against viruses and other breaches of security;
 - (c) in conformance with the interface specifications and routing protocols specified by Jisc;
 - (d) programmed, equipped and technically compatible with the Services and will not harm or damage the Jisc Equipment, Janet or the network/equipment of a Subcontractor;
- 9.1.2** immediately disconnect, and permits Jisc to disconnect (at the Customer's expense) any Customer Equipment if and for as long as the Customer Equipment:
- (a) does not meet, or appear to Jisc to meet, any relevant instructions, standards or Applicable Law;
 - (b) contains or creates material that is in breach of this Agreement;
 - (c) causes or appears likely to cause:
 - (i) death of or any personal injury to any person; or
 - (ii) material damage to property;
 - (d) infringes the Intellectual Property Rights of any third party; or
 - (e) materially impairs the Janet network or the quality of the Services available to the

Customer or any other user.

- 9.2** The Customer acknowledges and agrees that it will be responsible for the adequacy, repair and maintenance of the Customer Equipment.
- 9.3** The Customer warrants that:
- 9.3.1** it has and will maintain all necessary licences and consents required to enable it to disclose the Customer Data to Jisc;
 - 9.3.2** the Customer Data does not, and will not, infringe the Intellectual Property Rights of any third party.
- 9.4** If the Customer Equipment has reached End of Life, Jisc may not be able to provide the Customer with the full Services or software updates or maintenance. In such circumstances, Jisc will have no responsibility for failure to provide the full Services and Service Levels will not apply.
- 9.5** Where the Customer has specific compatibility or interface requirements, the Customer will ensure that any elements of the Customer Equipment (including software) to which the Services must interface or be compatible with are confirmed to Jisc prior to signature of the Agreement to enable Jisc to assess the impact of such requirements on the Services/Charges.

10. BROADBAND ONE PROVISIONS

- 10.1** This Clause 10 will only apply in relation to Services that utilise Broadband One.
- 10.2** Where the Customer has an Access Line (whether it is provided by Jisc/Subcontractor or by another communications provider) and services associated with the Access Line, the Customer acknowledges that there may be limitations imposed on changes to an End User Access once an exchange moves to a 'stop sell' in respect of the Access Line. This includes, but is not limited to, changes to product line speed and End User Access type.
- 10.3** Where the Customer has an Access Line (whether it is provided by Jisc/Subcontractor or by another communications provider) the Customer acknowledges that when Access Line is withdrawn from service, and if the Customer wants to continue using the Services, then the Customer will need to migrate the Access Line to an IP based service (provided by Jisc/Subcontractor or another communications provider).
- 10.4** Where the Customer has opted for Jisc to provide its Access Line, Jisc will aim to provide the Customer with at least six months' notice before the withdrawal of the Access Line, advising what the Customer needs to do to migrate its Access Line to an IP based service (provided by Jisc/Subcontractor or another communications provider) if the Customer wants access to continue to use the Services.
- 10.5** The standard service components listed in this Clause 10.5 are due to become end of life and shall be withdrawn from service on a phased basis from 1st December 2024. A list of exchanges marked for closure for new supply will be posted at the relevant Openreach website. The Customer acknowledges it should check with Jisc before purchasing any of the standard service components listed below. If the Customer purchases a standard service component, it acknowledges the standard service component may become end of life and be withdrawn during the Term of this Agreement. Where a standard service component becomes end of life and is withdrawn from service, Jisc will work with the Customer to transition the Customer's existing Services to a replacement service,

which may include a variation to the Charges:

10.5.1 ADSL2+;

10.5.2 FTTC 40/10;

10.5.3 FTTC 80/20;

10.5.4 GFAST 330/50 GFAST 160/30.

10.6 Jisc will only be able to provide continuity of the Services on sites served by the above standard service components until such date that Jisc specifies that service to a particular site is due to cease. In the event that the Customer has not procured and installed a replacement service before this date, Jisc will not be able to continue to provide the Services where there is a dependency on the standard service components.

10.7 Before the Services Commencement Date, Jisc will provide the Customer with:

10.7.1 an estimate of the upload and download speed ranges for the End User Access;

10.7.2 the Minimum Guaranteed Download Speed for the End User Access; and

10.7.3 an explanation of the factors that may affect the Customer's upload speed range, download speed range and Minimum Guaranteed Download Speed which is found at the Subcontractor's website.

10.8 If, after 10 Working Days following the Customer's Services Commencement Date, the line speed of the End User Access is regularly at or below the Minimum Guaranteed Download Speed, the Customer may report an Incident to the Jisc Service Desk and Jisc will use reasonable endeavours to resolve the Incident.

10.9 If:

10.9.1 the End User Access speed is continuously or intermittently below the Minimum Guaranteed Download Speed for three consecutive days after reporting the Incident to Jisc; and

10.9.2 Jisc is unable to resolve the Incident within 30 days from when the Customer first reported the Incident to Jisc,

the Customer may terminate the End User Access with immediate effect any time from the end of the 30-day period from when the Customer first reported the Incident to the Supplier.

10.10 If the Customer exercises the Customer's right to terminate the End User Access in accordance with Paragraph 10.8:

10.10.1 any Broadband One Access Lines associated with the End User Access will also terminate; and

10.10.2 the Customer will not be liable to pay and will be reimbursed (as applicable) all Charges in respect of the Services.

10.11 If the Customer makes an unauthorised change to any settings of an End User Access, the Minimum Guaranteed Download Speed will not apply.

11. SOFTWARE UPDATES

- 11.1 The Customer acknowledges that remotely updating software does carry some risk of the MS Equipment not returning to a working state. If this occurs, the MS Equipment may require a reboot or engineer maintenance visit to the affected site.
- 11.2 The Customer will provide an onsite contact for the duration of the remote software update who will be responsible for attempting to restart any MS Equipment liaising with the Jisc Service Desk as required.
- 11.3 If Jisc is unable to remotely install the required software, Jisc will attend the site to do so which will incur additional charges at Jisc's standard professional services day rates.
- 11.4 Jisc will only install the software on MS Equipment during Working Hours, unless agreed otherwise by the Parties. If software is to be installed outside of Working Hours, professional services day rates will be incurred.
- 11.5 Jisc will notify the Customer if the MS Equipment is not compatible with a software update and any replacement of incompatible MS Equipment will be at the Customer's own cost (excluding Jisc Equipment, which will be at Jisc's cost).
- 11.6 Jisc will notify the Customer as soon as reasonably practicable of the duration and impact of any MS Equipment downtime as a result of Jisc installing the software updates.
- 11.7 The Customer can request additional software updates via the Jisc Service Desk which may incur additional Charges.

12. BTNET PROVISIONS

- 12.1 This Clause 12 will only apply in relation to Services that utilise BTnet.
- 12.2 For Services that utilise BTnet, the following applicable definition of "Service Management Boundary" will apply and will take precedence over the definition in Clause 1.1:
 - 12.2.1 for Services with Managed CPE, the Service Management Boundary is the LAN port on the Managed CPE (the Customer is responsible for the cable connecting to the Customer Equipment);
 - 12.2.2 for Services that terminates in a data centre, the Service Management Boundary is the patch panel termination point in the data centre co-locate room (Jisc will not be responsible for connecting the data centre co-locate room to the data centre meetme room and the Customer is responsible for ordering a cross-connect from the data centre provider to connect back to the location where the Customer Equipment is located).
- 12.3 For Services with Managed CPE supporting wireless access, Jisc is not responsible for wireless capability of the wi-fi and guest wi-fi service in terms of connectivity, range, signal strength and bandwidth throughput; as these will vary depending on the Customer specific circumstances (e.g., CPE location, office layout, connecting devices and other limiting factors). Installation location of the Managed CPE may therefore impact wireless capability, range and performance and should be considered by the Customer during service delivery.
- 12.4 Initial set up of the Services at the point of delivery will involve an engineer laptop connect via ethernet

cable in to one of the CPE LAN ports and wireless connectivity will not be tested.

- 12.5** On and from the Services Commencement Date, Jisc may, for operational reasons, change the technical specification of the Services and/or the codes or numbers used by Jisc/Subcontractor for the provision of the Services, provided that any change to the technical specification does not materially affect the performance of the Services and provided that Jisc gives the Customer as much notice as possible.
- 12.6** The Services enable access to the internet from the Customer's site(s) in the UK, as applicable. The internet is separate from the Services and use of the internet is solely at the Customer's risk and subject to Applicable Law. Jisc has no responsibility for any information, software, services or other materials obtained by the Customer using the internet.
- 12.7** The Customer:
- 12.7.1** if the Customer accesses the Services via a LAN:
- (a) will provide and maintain a suitable LAN capable of interfacing satisfactorily with the Services;
 - (b) will configure the LAN and all associated equipment interfacing to the Services; and
 - (c) acknowledges and agrees that Jisc is not responsible for providing any support whether technical or otherwise, to the Customer's LAN;
- 12.7.2** will, where the Services are delivered to a data centre, arrange the necessary cross-connect (including ordering any necessary cross-connect) via a data centre provider to connect from the data centre meetme room to the location where the Customer Equipment is located;
- 12.7.3** will, if the Customer enables wireless access (wi-fi and guest wi-fi) on the Managed CPE where supported and available, be responsible for the use of that network, including:
- (a) selecting, managing and allocating passwords, including defining the Customer's passwords and ensuring their security in terms of length, complexity and strength;
 - (b) if the Customer chooses to leave wireless access "open" without a password, accepting the increased risk the Customer exposes itself to; and
 - (c) if the Customer provides access to their Services and network via either wi-fi or guest wi-fi the Customer will be responsible for any claims, losses and costs directly arising out of misuse of the Services by Users of the connection that is contrary to the Subcontractor AUP.
- 12.8** The Customer may use the Services for its own purposes, provided that:
- 12.8.1** the Customer, or any User, does not use the Services to send any communication which is illegal including to spam or to send or provide unsolicited advertising or promotional material or, knowingly to receive responses to any illegal communication, including spam, unsolicited advertising or promotional material sent or provided by any third party; and
- 12.8.2** the Customer will remain responsible for any access and use of the Services by its Users.

13. IP ADDRESSES

- 13.1** Jisc will not provide Domain Name System ("DNS") to the Customer.
- 13.2** Except for IP Addresses expressly registered in the Customer's name, all IP Addresses and domain names made available with the Services will at all times remain Jisc's property or the property of the Jisc's suppliers and are non-transferable.
- 13.3** Except for IP Addresses expressly registered in the Customer's name, all of the Customer's rights to use IP Addresses or domain names will cease on termination or expiration of the Services.
- 13.4** The Customer will pay all fees associated with registration and maintenance of the Customer's domain name, and will reimburse Jisc for any and all fees that Jisc pays to any applicable regional internet registry, and thereafter pay such fees directly to the applicable regional internet registry.
- 13.5** The Customer will not own any telephone number related to the Services.
- 13.6** If the Customer requires Provider Independent Resources (PIR) with the Service:
 - 13.6.1** the Customer will respond to any reasonable information requests from Jisc in order for Jisc to keep registration records up-to-date;
 - 13.6.2** the Customer will ensure that up-to-date registration data is provided to Jisc and the Customer agrees that some or all of this registration data is published in the applicable regional internet registry's database;
 - 13.6.3** the Customer will not assign any of the PIR to a third party;
 - 13.6.4** the Customer will pay any registration fees to Jisc that apply for the PIR;
 - 13.6.5** if the Customer cannot be contacted or the Customer does not pay any applicable registration fees to Jisc, the PIR will return by default to the applicable regional internet registry;
 - 13.6.6** the Customer's use of PIR is subject to the applicable regional internet registry's policies; and
 - 13.6.7** if the Customer does not follow any of the relevant regional internet registry's policies the PIR will return to the applicable regional internet registry.

14. END USER LICENCE AGREEMENT

- 14.1** The Customer will execute and comply with the EULA.
- 14.2** Where the EULA is presented in 'click to accept' format and the Customer requires Jisc/Subcontractor to configure or install software on the Customer's behalf, Jisc/Subcontractor will do so as the Customer's agent and bind the Customer to the EULA.
- 14.3** If the Customer does not comply with the EULA, Jisc may restrict the Services upon reasonable notice, and:
 - 14.3.1** the Customer will continue to pay the Charges; and
 - 14.3.2** Jisc may charge a re-installation fee to re-start the Services.
- 14.4** Jisc will only be permitted to restrict the Services in accordance with Clause 14.3 if the non-

compliance is material. Actions that are deemed a material breach are set out in Paragraph 2 of the EULA. Jisc will only be permitted to restrict the Services for as long as the material non-compliance persists. For the purposes of this Clause 14.4, a “material non-compliance” is a non-trivial breach of the EULA that negatively affects the benefit the relevant supplier would otherwise derive from the EULA.

- 14.5** The Customer will enter into the EULA for its own benefit and the rights, obligations, acknowledgements, undertakings, warranties and indemnities granted in accordance with the EULA are between the Customer and the relevant supplier and the Customer will deal with the relevant supplier with respect to any loss or damage suffered by either of the parties to the EULA. Such loss or damage will not be enforceable against Jisc.

15. WARRANTIES

- 15.1** Each Party warrants, represents and undertakes that:

- 15.1.1** it has full capacity and authority to enter into and perform this Agreement; and 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 this Agreement;
- 15.1.2** in relation to this 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 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 such legislation;
- 15.1.3** it will and require that each of its sub-contractors will, at all times during the Term comply with Modern Slavery Legislation and Anti-Slavery Policy; and
- 15.1.4** 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.

- 15.2** Jisc does not make any representations, whether express or implied, about whether the Services will operate in combination with any Customer Equipment or other equipment and software.

16. SECURITY AND ACCESS

- 16.1** Jisc and the Customer will use reasonable endeavours to implement and maintain appropriate organisational and technical security measures against:
- 16.1.1** unauthorised access to Janet;
 - 16.1.2** accidental loss, destruction or modification of, or damage to, data transmitted on Janet.

- 16.2** To the extent permitted by Applicable Law, Jisc may:
- 16.2.1** examine transmissions made over Janet where Jisc reasonably suspects that these transmissions breach this Agreement, or are of a nature likely to cause damage or distress to anyone, or are otherwise in breach of Applicable Law;
 - 16.2.2** analyse transmissions and traffic data for legitimate research or network improvement purposes; and
 - 16.2.3** remove (or otherwise cause not to be transmitted onwards over Janet) any transmissions which, in its reasonable opinion, is of the nature described in Clause 16.2.1 above.
- 16.3** 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.

17. SERVICES SUSPENSION

- 17.1** Jisc may in its sole discretion suspend the provision of the Services or any part of them immediately until further notice if Jisc:
- 17.1.1** 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
 - 17.1.2** needs to carry out emergency or scheduled maintenance to the Services or the Jisc Equipment; or
 - 17.1.3** 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.
- 17.2** In the event that Jisc exercises its right to suspend the Services under Clause 17.1 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 17.1 then Jisc will use reasonable endeavours to minimise the effect of and the duration of the suspension.
- 17.3** 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 this Agreement, then:
- 17.3.1** Jisc may suspend the Service to prevent these activities;
 - 17.3.2** Jisc will inform the Customer immediately at the time of suspension;
 - 17.3.3** Jisc will supply that evidence to the Customer in writing as soon as is reasonably practicable after that evidence comes within Jisc's possession;
 - 17.3.4** the Customer will use all reasonable endeavours to investigate such activity; and
 - 17.3.5** Jisc will provide further information and materials as the Customer reasonably requests to facilitate an investigation.

18. INTELLECTUAL PROPERTY

- 18.1** The Customer acknowledges that all Intellectual Property Rights in the Jisc Equipment and all Intellectual Property Rights created or acquired by Jisc in the course of providing the Services vest and will remain vested in Jisc.
- 18.2** Jisc acknowledges that all Intellectual Property Rights belonging to the Customer prior to the date of the Cover Letter will not transfer to Jisc solely by virtue of the provision of the relevant Services.

19. DISPUTE RESOLUTION PROCEDURE

- 19.1** 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.

20. HEALTH AND SAFETY

- 20.1** The Customer will provide to Jisc in writing such health and safety policies, environmental policies and reasonable security requirements as are applicable to those of its sites and premises at which Jisc or its Subcontractor(s) will provide the Services, a reasonable time in advance of Jisc/Subcontractor commencing the supply of such Services and/or attending the Customer site(s).
- 20.2** Jisc will ensure that its personnel comply with such policies/requirements as are notified to it in accordance with Clause 20.1 above but Jisc will not be responsible if, as a result of compliance with policies/ requirements, Jisc is in breach of any of its obligations under this Agreement.
- 20.3** Each Party will notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Customer's site(s) and/or premises referred to in Clause 20.1 of which it becomes aware which relate to or arise in connection with the performance of this Agreement.

21. DATA PROTECTION

- 21.1** In this Clause 21 and Schedule 4 (data protection), **Controller**, **Personal Data**, **Personal Data Breach**, **Processing**, **Processor**, and **Data Subject** have the meaning given to them in the UK GDPR (and **Process** and **Processing** shall be construed accordingly).
- 21.2** Where a party acts as a Controller in respect of any Personal Data Processed under or in connection with this Agreement, it will comply with its respective obligations under the Data Protection Legislation and will only use such Personal Data for the purposes of performing its obligations under this Agreement.

- 21.3** In relation to any Personal Data that the Customer (as a Controller) provides or makes available to Jisc (as a Processor), or that Jisc Processes on the Customer's behalf pursuant to this Agreement, Jisc will:
- 21.3.1** use, access or otherwise Process the Personal Data only in accordance with the Customer's lawful instructions;
 - 21.3.2** take, implement, maintain and monitor appropriate technical and organisation measures which are sufficient to comply with at least the obligations placed on Jisc by the requirements regarding the security of the Personal Data, as set out in the Data Protection Legislation;
 - 21.3.3** not transfer any Personal Data outside a Permitted Country without the Customer's prior written consent;
 - 21.3.4** ensure the reliability and integrity of Jisc's employees, consultants, contractors and staff involved in the Processing of (and who will have access to) those Personal Data (**Jisc Personnel**), and will ensure that each such individual will have entered into an appropriate contractual agreement that requires them to keep the Personal Data confidential;
 - 21.3.5** on the Customer's request, allow the Customer or any regulator to audit Jisc's compliance with this Clause 21;
 - 21.3.6** not sub-contract any Processing of the Personal Data unless the relevant sub-contractor is engaged by way of a written contract which imposes obligations on the sub-contractor which are at least equivalent to (and no less onerous than) the obligations imposed on Jisc pursuant to this Clause 21 and Jisc will remain primarily liable under this Agreement for all acts and omissions of its sub- contractors and the acts or omissions of those employed or engaged by these sub-contractors as if they were those of Jisc.
 - 21.3.7** comply with the obligations imposed upon a Processor under the Data Protection Legislation, and use all reasonable endeavours to assist the Customer to comply with the requirements of the Data Protection Legislation (including the obligations pursuant to Articles 32 to 36 of the UK GDPR (inclusive); and
 - 21.3.8** on termination of this Agreement, cease Processing all Personal Data and return to the Customer all Personal Data (and all copies under its possession or control) in accordance with Schedule 5 (data protection).
- 21.4** Jisc will notify the Customer promptly (and in any event, within 48 hours):
- 21.4.1** if it becomes aware of any: (i) Personal Data Breach; (ii) breach of this Clause 21; or (iii) breach of the Data Protection Legislation, whether committed by Jisc, Jisc Personnel, or any Subcontractor;
 - 21.4.2** if it is required by any Applicable Law to act other than in accordance with any of the Customer's instructions given under Clause 21.3.1 above, provided Jisc is not prohibited by law from so notifying the Customer;
 - 21.4.3** if it considers, in its opinion (acting reasonably), that any of the Customer's instructions under Clause 21.3.1 above infringe any of the Data Protection Legislation; and
 - 21.4.4** following its receipt of any actual or purported request or notice or complaint from (or on behalf of) a Data Subject exercising their rights under the Data Protection Legislation (a **Data Subject Request**) or any correspondence or communication (whether written or verbal) from

the Regulator (**Regulator Correspondence**), and will: (i) not disclose any Personal Data in response to any Data Subject Request or Regulator Correspondence without the Customer's prior written consent; and (ii) provide the Customer with all reasonable co-operation and assistance required by the Customer in relation to any such Data Subject Request or Regulator Correspondence.

- 21.5** Each of the Parties acknowledges and agrees that Schedule 4 (data protection) contains an accurate description of the data protection particulars.

22. CONFIDENTIALITY

- 22.1** 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 and in accordance with this Agreement or as required by law.
- 22.2** Nothing in this 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, (iv) which is or becomes publicly available through no breach of this Agreement, (v) where such use/disclosure is required by Applicable Law or by a court with the relevant jurisdiction if, to the extent not prohibited by Applicable Law, the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure, (vi) on a confidential basis, to its auditors, or (vii) on a confidential basis, to its professional advisers on a need-to-know basis.
- 22.3** Each Party agrees to immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.

23. LIABILITY

- 23.1** Nothing in this Agreement limits or excludes:
- 23.1.1** A Party's liability for death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (as applicable);
 - 23.1.2** A Party's liability for fraud or fraudulent misrepresentation by it or its employees;
 - 23.1.3** The Customer's liability to pay the Charges due and payable to Jisc;
 - 23.1.4** A Party's liability for any other matter in respect of which liability cannot by applicable law be limited or excluded.
- 23.2** Subject to Clause 23.1 and without prejudice to Clause 23.3, each Party's aggregate liability to the other in respect of all claims arising out of or in connection with this 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 this Agreement during the preceding Contract Year or, if the Agreement is still within the first Contract Year, the average monthly Charges paid under this Agreement multiplied by 12.

- 23.3** Subject to Clause 23.1 and without prejudice to Clause 23.2 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.
- 23.4** The Customer acknowledges that Jisc's ability to deliver the Services (and any associated deliverables) in the manner and in the timescales required by this Agreement are contingent upon the Customer and its third party suppliers properly and expeditiously performing the roles and responsibilities allotted to them under this 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 this Agreement where the Customer or its third party suppliers fail 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.
- 23.5** The Customer will indemnify Jisc in respect of all losses incurred by Jisc related to any claim from any third party caused by any breach of the Agreement by the Customer in respect of its use of the Services.
- 23.6** All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.

24. TERMINATION

- 24.1** Jisc may terminate the Agreement at any time by giving at least 100 days' written notice to the Customer.
- 24.2** The Customer may terminate the Agreement by giving at least 100 days' written notice to Jisc. Such notice of termination may only be given to take effect on, or after, the end of the Initial Term.
- 24.3** Jisc may terminate this Agreement with immediate effect:
- 24.3.1** if the Customer fails to pay any amount due within 30 days of its due date, provided that Jisc has issued one or more written reminders in respect of such late payment; or
 - 24.3.2** 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 or Janet.
- 24.4** Without prejudice to any other rights or remedies, either Party may terminate this Agreement with immediate effect by notice in writing to the other Party if:
- 24.4.1** the other Party is in material breach of this Agreement which is incapable of remedy;
 - 24.4.2** commits a breach of this Agreement which is capable of remedy but is not remedied within 40 days of receipt of written notice from the first Party, specifying the breach and requesting remedy; or
 - 24.4.3** the other Party becomes insolvent, subject to a winding up petition, ceases trading or undergoes a similar event.
- 24.5** The Customer's termination rights in Clauses 24.4.1 and 24.4.2 will not be available where Jisc's

breach or material breach is caused by any act or omission of the Customer, its agents, subcontractors, consultants or employees.

- 24.6** Termination of this Agreement will not prejudice the provisions of this Clause, or the following Clauses which will survive termination: 1 (Interpretation), 2.1 (Services), 19 (Dispute Resolution Procedure), 22 (Confidentiality), 23 (Liability), 23.5 (Customer Indemnity), 24 (Termination), 25 (Consequences of Termination), 26 (General), or any other clause or Schedule which should reasonably survive termination of this Agreement which will continue in full force and effect and will be without prejudice to the rights of either Party in respect of any antecedent breach of this Agreement.

25. CONSEQUENCES OF TERMINATION

- 25.1** On termination of this Agreement howsoever caused:

- 25.1.1** Jisc will cease to provide the Services;
- 25.1.2** Jisc will remove the existing proprietary configuration from any Edge Device(s) and reset the user name and password to allow Customer access;
- 25.1.3** the Customer will immediately stop using the Services, except for Jisc/Subcontractor-provided software embedded in devices or equipment to which the Customer has title:
 - (a)** that cannot reasonably be removed or deleted from that device or equipment; and
 - (b)** to the extent strictly necessary for the ongoing use of that device or equipment;
- 25.1.4** the Customer will disconnect any Customer Equipment from Jisc Equipment located at the site(s);
- 25.1.5** the Customer will promptly return or delete any Confidential Information that the Customer has received from Jisc during the term of this Agreement;
- 25.1.6** the Customer will return to Jisc any Jisc Equipment provided to the Customer or to any other person as Jisc directs, within 10 Business Days of termination and at the Customer's expense and risk;
- 25.1.7** the Customer will not dispose of or use Jisc Equipment other than in accordance with Jisc's written instructions or authorisation;
- 25.1.8** subject to Clause 4.6 (Charges and Payment), 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 (e.g., ECCs), Jisc may submit an invoice, which will be payable immediately on receipt;
- 25.1.9** subject to Clause 4.6 (Charges and Payment), the Customer will pay Jisc reasonable committed and unavoidable losses as long as Jisc provides a fully itemised and costed schedule with evidence. The maximum value of this payment is limited to the total sum payable to Jisc if the Agreement had not been terminated.
- 25.1.10** Jisc will, at the request of the Customer, provide a reasonable level of co-operation to the Customer in relation to the transfer of the Services to the Customer or to a replacement supplier. Save

where the Agreement has been terminated by the Customer pursuant to Clauses 24.4.1 to 24.4.3 (inclusive), the costs incurred by Jisc in undertaking such co-operation will be payable by the Customer at Jisc's normal rates; and

- 25.1.11** the accrued rights, remedies, obligations and liabilities of the Parties as at termination will not be affected, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination.

26. GENERAL

- 26.1** The Customer will comply with any information recording/reporting obligations and Article 13 of the Waste Electrical and Electronic Equipment Directive 2012 for the costs of collection, treatment, recovery, recycling and environmentally sound disposal of any equipment supplied under this Agreement that has become waste electrical and electronic equipment.
- 26.2** Subject to Clause 26.3 neither Party will at any time assign or transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed).
- 26.3** Jisc may at any time by written notice assign or transfer all or any of its rights or obligations under this 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 this Agreement without the Customer's consent.
- 26.4** Any notices given in relation to this Agreement will be given for the attention of the relevant person set out in the Cover Letter, which may, include email and sent to the address or email address of the recipient set out in the Cover Letter or another address or email address which the recipient may designate by notice given in accordance with the provisions of this Clause.
- 26.5** 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, three Business Days from the date of posting; and in the case of email, upon the email reaching the recipient's server.
- 26.6** 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 managed SD WAN services from Jisc".
- 26.7** 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 an event or circumstance which is beyond the reasonable control of that Party. If such event or circumstances prevent a Party from performing any of its obligations under this Agreement for more than 90 days continuously, the other Party will have the right, without limiting its other rights or remedies, to terminate this Agreement with immediate effect by giving written notice to the first Party.
- 26.8** This 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 this Agreement. Each of the Parties acknowledges and agrees that it does not enter into this 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 this 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 this Agreement. Nothing in

this Clause will operate to limit or exclude liability for fraud.

- 26.9** Jisc may vary these Terms and Conditions from time to time. The Customer's continued use of the Services will constitute the Customer's acceptance of the variation.
- 26.10** No third party is entitled to the benefit of this Agreement under the Contracts (Rights of Third Parties) Act 1999. The right of either Party to vary or terminate this Agreement will not be subject to the consent of any third party.
- 26.11** This Agreement may be entered into by the Parties on separate counterparts, which taken together will constitute one single agreement between the Parties.
- 26.12** This Agreement will be governed by English law, and the English Courts will have exclusive jurisdiction to deal with disputes arising out of or in connection with this Agreement.
- 26.13** This Agreement has been duly executed by the Parties' authorised officers on the Cover Letter and is dated as shown on the Cover Letter.
- 26.14** References in the Janet Policies to "Terms for Provision of the Janet Service" and "Janet Terms" will be read as references to this Agreement.