



Terms and Conditions

It is hereby agreed that the following clauses shall apply to the supply by Vnetrix of the Services.

1. Available Services

- 1.1 Vnetrix shall only carry out the Services. The Services will be provided remotely where possible but may require visits to the Client's premises at the discretion of Vnetrix.
- 1.2 Unless directed otherwise by the Client Vnetrix may use software that has been located over the Internet to provide the Services or effect fixes to particular problems that are found in the Client's systems.
- 1.3 Vnetrix sole obligation shall be to use its reasonable endeavours to find a solution to the problem through the knowledge of the Engineers and other sources. Vnetrix shall be deemed to have done so if the incident is deemed to be closed.
- 1.4 Vnetrix accepts no responsibility if the Client has incorrectly specified the tasks requested.
- 1.5 If the Client has elected to subscribe for Vnetrix Services then it will receive these services according to any Service Order.

2. Client Responsibilities

The Client warrants that:

- 2.1 It has obtained all permissions and consents required by it to enter into this Agreement.
- 2.2 It shall provide Vnetrix with all assistance materials and accurate information reasonably required by Vnetrix for the purposes of enabling it to provide the Services.
- 2.3 It shall ensure that all personnel assigned by it to provide assistance to Vnetrix shall have the requisite skill qualification and experience to perform the tasks required of them.
- 2.4 It shall provide Vnetrix with such access to its premises as may be reasonably required for the purposes of providing the Services.
- 2.5 It shall obtain all third party consents licences and rights reasonably required in order to allow Vnetrix to perform the Services.

Should the Client fail to perform any of its obligations under this Agreement then Vnetrix will not be responsible for any delay cost increase or other consequences arising from such failure and the Client shall reimburse Vnetrix for any costs or expenses incurred due to such failure.

3. Response Times and Skills Provided

- 3.1 During Normal Service Desk Hours Vnetrix will be available by telephone and such other means as Vnetrix shall offer from time to time.



- 3.2 Should the Client request on-site attendance then Vnetrix will use reasonable endeavours to dispatch an Engineer with requested skill sets within the time period agreed with the Client, but such response times are estimate only and shall not be binding on Vnetrix.

4. Price

- 4.1 The Client shall pay the amount referred to in any applicable Service Orders.
- 4.2 All prices quoted are exclusive of any value added tax for which the Client may be additionally liable for payment at the applicable rate.

5. Payment for Services

- 5.1 All other amounts due under this Agreement or Service Order shall be paid by the Client by the due date and in the currency as specified in Vnetrix invoice. Payment shall only be deemed received by Vnetrix upon receipt of cleared funds. Payment shall be made in full without any abatement, set off or deduction on any grounds.
- 5.2 It is of the essence of this Agreement that all amounts due from the Client are paid on time. Vnetrix shall be entitled to recover from the Client any and all expenses incurred by Vnetrix in recovering overdue amounts and/or interest on overdue amounts (before and after judgement) calculated daily until payment is made in full.
- 5.3 Where payment is made by credit card initially, the Client expressly authorises Vnetrix to charge recurring billing as appropriate, until the Client gives written notice otherwise to Vnetrix and the credit card company, or this Agreement ends.
- 5.4 Vnetrix reserves the right to factor out overdue accounts to a collection agency or otherwise employ a collection agency.
- 5.5 The chargeable rates referred to in any Service Order will be reviewed periodically. Vnetrix reserves the right to charge the Client at any revised rate at any time after the first anniversary of the date of this Agreement and/or where there is an error in the stated rates, (provided in each case that Vnetrix has given at least 30 days prior written notification to the Client). The received advised rates are deemed to be accepted by both parties if no written objection is received within 30 days of receipt by the Client of such notification.

6. The Term

- 6.1 This Agreement shall commence on the date hereof. Unless otherwise agreed in writing by Vnetrix this Agreement shall continue until terminated in accordance with clause 7.
- 6.2 In the event of a purported cancellation or termination by the Client otherwise than in accordance with clause 7, the Client remains obliged to pay for the Services for the period until the Client could have properly terminated this Agreement in accordance with clause 7.



7. Termination

This Agreement may be terminated as follows:

- 7.1 On 30 days notice following the expiry or completion of all outstanding Service Orders.
- 7.2 Forthwith by Vnetrix if the Client fails to pay any due sum within 14 days of the due date thereof and/or becomes insolvent or appoints an administrator or receiver and/or does not accept any revision of the rates made in accordance with Clause 5.5.
- 7.3 Forthwith by either party if the other commits any material breach of any term of this Agreement and which, in the case of a breach capable of being remedied, shall not have been remedied within 30 days of a written request to remedy the same.

8. Effects of Termination

- 8.1 Upon termination or expiry of the Agreement all amounts payable by the Client shall immediately become due and Vnetrix will cease the provision of the Services and all equipment supplied under ownership of Vnetrix must immediately be returned to Vnetrix.
- 8.2 Any termination of this Agreement howsoever caused shall be without prejudice to any other rights or remedies to which either party may be entitled hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continues in force on or after such termination. Without limitation any work already carried out by Vnetrix and not invoiced before such termination may be invoiced and will become due immediately.

9. Disputes

Should the Client dispute for any reason the charges made on an account or otherwise require clarification then the Client shall so inform Vnetrix in writing within seven working days of receiving the relevant invoice. Vnetrix undertakes to meet the Client to resolve the dispute.

10. Copyright and intellectual property

- 10.1 Copyright and any and all other intellectual property rights in any documentation or other information developed or written or reduced to any tangible or literary form whatsoever pursuant to this Agreement or any Services to which this Agreement refers shall vest in the party originating them.
- 10.2 All copyright and intellectual property rights in any documentation and all software and all know how will remain vested in the party supplying the same.
- 10.3 The Client shall not reproduce any software or documentation provided as part of the service, in any form or by any means whether visible, electronic



or otherwise, except to the extent necessary to produce back up copies for use only in the event of loss or damage to the software or documentation.

- 10.4 Each party warrants that no software serviced or provided is held or copied in breach of copyright.

11. In respect to Data Protection Legislation you agree that we may process Personal Data consistent with applicable law and regulation, only for the purpose of this Agreement and/or for purposes connected with the subject matter of the disclosure and/or business relationship between the parties.

12. System Backups

- 12.1 It is the Clients responsibility to have a regular system backup strategy in place for all systems to be managed by Vnetrix and keep an up to date copy in a safe place. It is recommended that system backups be carried out at regular intervals.
- 12.2 For clients who have selected Vnetrix to perform backup checks Vnetrix will perform this as directed by the backup schedule. Vnetrix accepts no responsibility for any lost data.
- 12.3 Where Vnetrix is not contracted to maintain the Client backup schedule Vnetrix accepts no responsibility for any lost data and is entitled to assume that the Client has an up to date back up.
- 12.4 However the Client will retain full responsibility for such back up media and storage and Vnetrix cannot accept responsibility for loss of data given the vital nature of this area of work.

13. Liability

Except in respect of injury to or death of any person resulting directly from the negligence of Vnetrix and/or any breach in respect of which in accordance with section 6 of the Unfair Contract Terms Act 1977 liability can not be excluded and/or fraud the liability of Vnetrix shall be limited in accordance with this clause.

- 13.1 If the Client believes that any of the Services supplied are defective then they shall notify Vnetrix of such defect in writing forthwith on becoming aware of the same. If Vnetrix receives written notice from the Client within 30 days of the relevant Services being carried out specifying in reasonable detail any defect in the Services supplied by a Vnetrix Engineer, then Vnetrix shall within a reasonable time after receiving such notice use its reasonable endeavours to provide to the Client the services of an alternative Engineer for a reasonable period of time to assist the Client to investigate such defect. If it is agreed or determined by Vnetrix that the defect does not relate to a fault in the Services supplied by the Vnetrix Engineer, then Vnetrix shall be entitled to charge for investigating such defect based on its usual hourly rate. If it is agreed or determined by Vnetrix that the services provided have been provided defectively then Vnetrix shall be entitled to and shall use its reasonable endeavours to remedy such defect within a reasonable period of time. Vnetrix shall have no further liability whatsoever in relation to Events of Default in relation to such defects as are accordingly corrected ("a Correction")



- 13.2 In respect of each Event of Default and/or series of connected Events of Default Vnetrix aggregate liability shall be limited to £2000; and Vnetrix entire aggregate liability in respect of any and all Events of Default shall be limited to damages of an amount equal to the amounts paid pursuant to this Agreement Prior to the relevant Services being provided.
- 13.3 Vnetrix has obtained professional indemnity cover and will use its reasonable endeavours to continue to do so during the Term (details of which can from time to time be provided upon request). Subject to clause 12.2 and the limits applicable to such insurance cover from time to time, if Vnetrix is not able to effect a Correction (as referred to in clause 12.1) Vnetrix shall accept liability to the Client in respect of loss resulting from the negligence of Vnetrix or its employees, agents or subcontractors if and to the extent that such loss can be claimed by Vnetrix under such policy of insurance. The Client agrees to accept such insured liability as an overall limit on the liability of Vnetrix in respect of each and every Event of Default. Vnetrix agrees to use all reasonable endeavours to pursue such claim under such policy of insurance. For the avoidance of doubt nothing in this clause 12.3 shall have the effect of increasing the maximum liability of Vnetrix above that set out in clause 12.2
- 13.4 In relation to any Event of Default relating to the Vnetrix Service Desk, Vnetrix only accepts liability (in relation to any failure to provide a solution and or the failure of any solution) to the extent that Vnetrix is negligent in providing such service.
- 13.5 Vnetrix shall not be liable to the Client for loss of profits, goodwill or any type of special indirect or consequential loss (including loss or damage suffered by the Client as a result of an action brought by any third party) even if such loss was reasonably foreseeable or Vnetrix had been advised of the possibility of the Client incurring the same.
- 13.6 Vnetrix shall have no liability or obligations to the Client in respect of any Event of Default unless the Client shall have served notice of the same on Vnetrix within 30 days of the date on which the relevant services were provided.
- 13.7 Where the Services included configuring a named system and/or are provided on the assumption that the system is configured in a particular way then if the Client subsequently permits the configuration of the System to be altered (other than by Vnetrix and/or in a manner which is approved by Vnetrix) Vnetrix shall be released from any further liability or obligation in relation to the provision of such Services.
- 13.8 Vnetrix shall not be liable for any services or products provided by third party vendors, developer or consultants (whether identified and/or referred to the Client by Vnetrix or otherwise). It shall be for the Client to satisfy itself as to the suitability of such persons and to agree suitable terms with such third parties.

Vnetrix obligations and liabilities (as set out in this clause) are severable and state the entire liability of Vnetrix in relation to Events of Default and are in lieu of all other obligations and liabilities howsoever arising in contract or otherwise (whether in



respect of any warranties or conditions (express, implied, statutory or otherwise) or otherwise) in relation to any Event of Default.

A higher and wider level of liability can only be assumed with the written consent of a Director of Vnetrix (and will be subject to Vnetrix being able to increase its insurance cover to cover such liability and or the price being increased accordingly) and or procuring that the relevant services are provided under a Vnetrix Agreement or another express written agreement between Vnetrix and the Client (which has been approved by a director of Vnetrix).

14. Security

- 14.1 Vnetrix and the Client agree that any and all information identified by the other as Confidential and/or Proprietary, or which, under all of the circumstances, ought reasonably to be treated as confidential and/or Proprietary, will not be disclosed to any third person without express written consent of the other party.
- 14.2 The terms and conditions of this Agreement are confidential.
- 14.3 The confidentiality obligations of this clause shall not apply to any information or development: i) which is or subsequently becomes available to the general public other than through a breach by the receiving party; or ii) which is already known to the receiving party before disclosure by the disclosing party; or iii) which is developed through the independent efforts of the receiving party; or iv) which the receiving party rightfully receives from third parties without restriction as to use.
- 14.4 Neither party will use the name(s), trademark(s), or trade name(s) (whether registered or not) of the other without the express prior written consent of the other, except that Vnetrix may use the Client's name for reference purposes.
- 14.5 Vnetrix provides a security service and where this is ordered Vnetrix does not guarantee the full security of Client servers and does not guarantee that it will not be impossible to hack into any Client servers.
- 14.6 Vnetrix will not be responsible for any attacks on a server or if Vnetrix for any reason is unable to deploy a security patch properly due to the Client configuration or if the Client tampers in any way with the security patch that is applied thereby undermining its ability to work correctly.

15. Soliciting Employees

- 15.1 During the term of this Agreement and for a period of six (6) months following the termination of this Agreement, the Client shall not solicit any employee of Vnetrix who is directly involved in the performance of this Agreement with a view of persuading such person to cease being employed by Vnetrix or any company associated with Vnetrix or to take an alternative position (whether or not such person would commit a breach of contract by reason of leaving).
- 15.2 During the term of this Agreement and for a period of six (6) months following the termination of this Agreement, the Client shall not employ any



employee of Vnetrix who is directly involved in the performance of this Agreement.

- 15.3 If the Client is in breach of sub clauses it shall pay to Vnetrix compensation equal to 30% of one year's salary (based on the salary payable to such person by Vnetrix at the time of the breach).

16. General

16.1 Definitions

- a) **Normal office hours** means the periods from 9.00am to 5.30pm on any day which is not a Saturday, Sunday or Public Holiday.
- b) **Standard Service Desk Hours** means the periods from 8.00am to 6.00pm on any day which is not a Saturday, Sunday or Public Holiday.
- c) **Services** means the services to be supplied hereunder as selected and set out in any Service Order.
- d) **Services Order** means an order for services made by the Client and accepted by Vnetrix in the form attached hereto.
- e) **Engineer** means a person whom Vnetrix has used its reasonable endeavours to satisfy itself has the appropriate qualifications and experience to provide the tasks specified to such an Engineer.
- f) **Agreement** – This Agreement including without limitation the Schedules and modules referred to.
- g) **Event of Default** – the claims which the Client may be able to make under or in connection with this Agreement and the services to be provided under it where there is fault by Vnetrix (including without limitation any breach of Vnetrix contractual obligations arising under the agreement and/or any representation or tortuous act or omission including without limitation negligence).
- h) **The Vnetrix Service Desk** means the service system enabling the Client to gain access to Vnetrix staff with relevant hardware and software experience.
- i) **The Modules** - means the modules referred to in the Schedule.
- j) **Connection Fees** - means such fees for connecting up to allow the operation of the Services as set out in the Schedule.
- k) **Data Protection Legislation** - all applicable privacy and data protection laws including the GDPR and any applicable national implementing laws, regulations and secondary legislation in England and Wales relating to the processing of Personal Data, as amended, replaced or updated from time to time.

16.2 Force Majeure

Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to act of God, fires, strikes (of it's own or other employees), insurrections or riots, embargoes, container shortages or delays in transportation, inability to obtain supplies, requirements of regulations of any civil or military authority.



Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of any event of Force Majeure, such notice to contain details of the circumstances giving rise to the event of the Force Majeure. If a default due to an event of Force Majeure shall continue for more than six weeks then the party not in default shall be entitled to terminate the Agreement. Neither party shall have any liability to the other in respect of the termination of the Agreement as a result of an event of Force Majeure.

16.3 Law

The agreement shall be governed by and construed in accordance with English Law and the parties hereto submit to the non-exclusive jurisdiction of the English Courts.

16.4 Assignment

Neither party may assign the Agreement, in whole or in part, without the express prior written consent of the other party, which shall not be unreasonably withheld.

16.5 Entire Agreement

- a) It is acknowledged and agreed that this Agreement (including the documents and Schedules referred to herein) shall supersede all prior representations arrangements understandings and agreements between the parties relating to the subject matter hereof and shall constitute the entire complete and exclusive agreement and understanding between the parties hereto.
- b) The parties irrevocably and unconditionally waive any right they may have to claim for damages for any misrepresentation arrangement understanding or agreement not contained in this Agreement or for any breach of any representation not contained in the Agreement (unless such misrepresentation or representation was made fraudulently);
- c) It is further acknowledged and agreed that no representations arrangements understandings or agreements (whether written or oral) made by or on behalf of any of the other parties have been relied upon other than those expressly set out or referred to in the Agreement.
- d) Notwithstanding that the whole or any part of any provision of the Agreement may prove to be illegal or unenforceable, the other provisions of the Agreement and the remainder of the provision in questions shall remain in full force and effect and where such provision would be enforceable if some part of it were deleted, then upon Vnetrix giving notice to the Client, such part shall be deemed to have been deleted for the purpose of such enforcement.
- e) All services provided by Vnetrix are only supplied by Vnetrix subject to these terms and conditions. Unless previously agreed in writing by an authorised director of Vnetrix no oral, written or other addition thereto or variation or waiver thereof shall be effective; and
- f) The body of this Agreement shall supersede any other terms and conditions appearing elsewhere and shall prevail over and exclude any other terms or



conditions stipulated or incorporated or referred to by the Client or his agent or any third party.

- g) The giving of any delivery instructions, the acceptance of or payment for any products or services of any conduct in confirmation of a transaction contemplated by the Client and Vnetrix shall constitute unqualified acceptance by the Client of the relevant terms and conditions.

16.6 Third Parties

The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement.

16.7 Notices

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address in England as the recipient may designate by notice. Any such notice may be delivered personally or by first class pre-paid letter or facsimile transmission.