

DACOLL LIMITED

FRAMEWORK AGREEMENT FOR THE PROVISION OF SERVICES

CONTRACT NUMBER

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THIS FRAMEWORK AGREEMENT is made the of

PARTIES

(1) DACOLL LIMITED, a company incorporated in Scotland with company number SC173001, whose registered office is at Dacoll House, Gardners Lane, Bathgate, West Lothian EH48 1TP (the "**Supplier**")

(2) (the "**Customer**")

We hereby agree to be bound by the terms of this Agreement as annexed hereto

SIGNED for and on behalf of
DACOLL LIMITED

SIGNED for and on behalf of

Signed:
Name: Mr A Everington.....
Title: Managing Director.....
Date:
Place of signing:

Signed:
Name:
Title:
Date:
Place of signing:

Before the following witness

Before the following witness

Signed:
Name:
Address:
.....

Signed:
Name:
Address:
.....

TERMS AND CONDITIONS

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

(1) In this Agreement, unless the context otherwise requires, the following expressions have the following meanings:

"Agreement"
means this agreement and the schedule attached to it (as the same may be amended from time to time with the agreement of the parties);

"Additional Equipment"

means any changes and additions to the Equipment made at the request of the Customer after the Commencement Date and which additional equipment is in good repair and condition;

"Charges"
means the charges payable for the Services under this Agreement, being (where the context so requires) each of the following:- (a) the charges for the Maintenance Services referred to in Part 2 of the Schedule; (b) the charges for the Prime Support Managed Services referred to in Part 3 of the Schedule; (c) the charges for the Hosting Services referred to in Part 4 of the Schedule; and (d) such other charges that may be due under this Agreement, in each case as the same may be amended from time to time in accordance with the provisions of Clause 4;

"Commencement Date"
means the date on which this Agreement shall become effective as specified in Part 1 of the Schedule notwithstanding the date or dates on which this Agreement is signed

"Documentation"
means the documentation provided for the Software in either printed text or machine readable form

"Equipment"
means the computer equipment specified (as appropriate) in Parts 2, 3 and 4 of the Schedule (including any part or parts of it) and such additions and changes thereto in the form of Additional Equipment as shall from time to time be agreed in writing between the parties

"Host Service Hours"
means the hours specified in Part 4 of the Schedule

"Hosting Charges"
means the periodic charge for the Hosting Services specified in Part 4 of the Schedule as varied from time to time pursuant to Clause 4

"Hosting Services"
means the hosting services to be provided by the Supplier pursuant to Clause 2

"Location"
means the Customer's premises in which the Equipment is installed as specified (as appropriate) in Parts 2, 3 and 4 of the Schedule

"Initial Period"
means the initial period of this Agreement as specified in Part 1 of the Schedule

"Maintenance Charge"
means the periodic charge for the Maintenance Services specified in Part 2 of the Schedule as varied from time to time pursuant to Clause 4 and such other charges that may be due under this Agreement, in each case as the same may be amended in accordance with the provisions of Clause 4;

"Maintenance Hours"
means the hours specified in Part 2 of the Schedule but excluding Saturdays, Sundays and public holidays (unless otherwise stated in the Schedule)

"Maintenance Release"
means a release of the Software which corrects faults, adds functionality or otherwise amends or upgrades the Software, but which does not constitute a New Version

"Maintenance Services"
means the maintenance services to be provided by the Supplier pursuant to Clause 2

"Modification"
means any Maintenance Release or New Version which is acquired by the Customer in accordance with this Agreement

"Monitoring Hours"
means the hours specified in Part 3 of the Schedule

"New Version"
means any new version of the Software which from time to time is publicly marketed and offered for purchase by the software proprietor in the course of its normal business, being a version which contains such significant differences from the previous versions as to be generally accepted in the marketplace as constituting a new product

"Non Contracted Equipment"
means any equipment at the Location which is not included in the list of Equipment as set out in the Schedule (as the same may be updated from time to time) and in respect of which the Customer requests any Services

"Optional Services"
means all or any of the Maintenance Services, the Prime Support Managed Services and the Hosting Services listed in Parts 2, 3 and 4 of the Schedule and any other services that the Supplier and the Customer may from time to time agree shall be supplied to the Customer by the Supplier under the terms of this Agreement;

"Out of Scope Items"
means those items set out in Schedule Part 2 which do not form part of the Services but which if provided by the Supplier shall be charged at the Supplier's then applicable rates

"Prime Support Managed Services Charges"
means the periodic charge for the Prime Support Managed Services specified in Part 3 of the Schedule as varied from time to time pursuant to Clause 4

"Prime Support Managed Services"
means the prime support managed services to be provided by the Supplier pursuant to Clause 2

"Response Time"
means those response times to be achieved by the Supplier in performing the Services as set out in Parts 2, 3, and 4 of the Schedule

"Schedule"

means the schedule in six (6) parts annexed to and forming part of this Agreement

"Services"

includes (as appropriate) those of the Optional Services that the Supplier and the Customer may from time to time agree shall be supplied to the Customer by the Supplier under the terms of this Agreement and identified as such in Part 1 of the Schedule

"Software"

means the software installed on the Equipment covered by (as appropriate) the Maintenance Services, the Prime Support Managed Services and the Hosting Services.

(2) The headings of this Agreement are inserted for convenience or reference only and are not intended to be part of or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.

(3) In this Agreement references to any statute or statutory provision shall, unless the context otherwise requires, be construed as a reference to that statute or statutory provision as from time to time amended, consolidated, modified, extended, re-enacted or replaced.

(4) In this Agreement references to the masculine include the feminine and the neuter and to the singular include the plural and vice versa as the context admits or requires.

(5) In the event of any conflict between the terms of this Agreement and any provision of the Schedule, the terms and conditions of this Agreement shall prevail.

2. THE SERVICES

(1) The Supplier shall use its reasonable endeavours to supply and the Customer shall take and pay for the Services.

(2) The Services shall be performed with reasonable care and skill and in accordance with all applicable laws.

(3) Where they form part of the Services:-

(a) the Maintenance Services shall be provided during the Maintenance Hours and shall comprise of the services all as more particularly defined in Part 2 of the Schedule;

(b) the Prime Support Managed Services shall be provided during the Monitoring Hours and shall comprise the services all as more particularly defined in Part 3 of the Schedule; and

(c) the Hosting Services shall be provided during the Host Service Hours and shall comprise the services all as more particularly defined in Part 4 of the Schedule.

(4) The Supplier shall be entitled, on prior notice to the Customer, to make changes to the Services, provided such changes do not have a material adverse effect on the Customer's business operations.

(5) The Supplier shall have no obligation to provide the Services where faults arise from any breach of the Customer's obligations under this Agreement.

(6) All intellectual property rights created or developed by the Supplier in the course of providing the Services shall belong to the Supplier and the Customer shall have no rights in respect of any such intellectual property rights except as expressly granted under this Agreement.

(7) The Supplier shall have no obligation to provide any of the Out of Scope Items. However, if the Supplier decides to do so, the Supplier shall be entitled to charge for such Out of Scope Items at its then current scale of charges and subject to normal credit terms.

3. LATER ORDERS FOR OPTIONAL SERVICES

(1) After the Commencement Date but during the continuance of this Agreement, the Customer may from time to time request the Supplier to supply Optional Services of the type and in line with the charges set out in Parts 2, 3, 4, 5 and 6 of the Schedule (as the same may be amended from time to time in accordance with Clause 4). The Supplier shall use its reasonable endeavours to comply with the Customer's request, but the Customer acknowledges that the Supplier's ability to supply the Optional Services shall depend on the availability of appropriate resources at the time in question.

(2) Where the Supplier agrees to provide Optional Services after the Commencement Date, such agreement shall be embodied in an order for Optional Services. Each order for Optional Services shall be made under, and shall incorporate, the terms of this Agreement.

4. CHARGES

(1) Terms of payment of Supplier's invoices for the Services are thirty (30) days net from date of invoice.

(2) The Supplier reserves the right to revise listed charges at any time. Revised charges will only be applicable on renewal of this Agreement. The Supplier will advise the Customer of revised charges at least thirty (30) days prior to the Agreement renewal date. Individual charge rates are available on request.

(3) Charges for Non-Contracted Equipment will be made individually by the Supplier according to its then current scale of charges and are subject to normal

credit terms, namely payment falling due by the Customer within thirty (30) days net from date of invoice.

(4) Charges for Additional Equipment will be made for the balance of the duration of the Agreement at the Supplier's prevailing rates. The Supplier is entitled to charge in addition for any services required to put such Additional Equipment into good repair and condition at the Supplier's prevailing rates prior to accepting such Additional Equipment.

(5) Charges for any New Version shall be agreed in writing prior to performance or supply by the Supplier, and shall be charged and invoiced to the Customer by the Supplier (and paid by the Customer) following acceptance by the Supplier of the Customer's written order for such New Version or such Optional Service (as the case may be).

(6) Charges for any additional Optional Service supplied by the Supplier to the Customer pursuant to Clause 3 after the Commencement Date shall be in line with the charges set out in Parts 2, 3, 4, 5 and 6 of the Schedule (as the same may be amended from time to time in accordance with this Clause 4) and shall be charged and invoiced to the Customer by the Supplier (and paid by the Customer) following acceptance by the Supplier of the Customer's written order for such New Version or such Optional Service (as the case may be).

(7) The Supplier shall make an additional charge, in accordance with its standard scale of charges from time to time in force, for service visits:

(a) made at the request of the Customer by reason of any fault in the Equipment due to causes not covered by the Services; or

(b) made at the request of the Customer but which the Supplier finds are frivolous or not necessary.

(8) All charges are exclusive of Value Added Tax and net of all other taxes, duties whatsoever and the Customer shall be additionally responsible for payment of any such taxes or duties.

(9) If any sum payable under this Agreement is not paid in full on the due date, the Customer shall pay interest on the sum outstanding at the rate of one (1) per cent per annum above the base rate of the Clydesdale Bank plc in force from time to time from the date the payment became due until full payment is made (whether after or before judgement). The Supplier reserves the right to suspend the Services until full payment is made of any such outstanding sum and interest due.

5. CUSTOMER OBLIGATIONS

During the continuance of this Agreement the Customer shall

1 Use and care of the Equipment

(a) ensure that proper environmental conditions are maintained for the Equipment and shall maintain in good condition the accommodation of the Equipment, the cables and fittings associated therewith and the electricity supply thereto

(b) not make any modification to the Equipment without the Supplier's prior written consent, such consent not to be unreasonably withheld

(c) keep and operate the Equipment in a proper and prudent manner in accordance with the manufacturer's or the Supplier's operating instructions and ensure that only competent trained employees (or persons under their supervision) are allowed to operate the Equipment

(d) ensure that the external surfaces of the Equipment are kept clean and in good condition and shall carry out any user maintenance recommended by the manufacturer or the Supplier from time to time

(e) save as aforesaid, not attempt to repair or maintain the Equipment and shall not request, permit or authorise anyone other than the Supplier to carry out repairs or maintenance of the Equipment

(f) use on the Equipment only such operating supplies as the manufacturer or the Supplier shall recommend

(g) not make any movement of the Equipment or remove the Equipment from the Location without notifying the Supplier and so ensure continuity of maintenance. Any location changes may require a revision of the Charges

(h) not use in connection with the Equipment any accessory, attachment or additional equipment other than that which has been supplied by or approved in writing by the Supplier or the manufacturer

(i) make available to the Supplier free of charge all facilities and services reasonably required by the Supplier to enable the Supplier to perform the Services including, without limitation, print-outs, data preparation and office accommodation.

2 Access

(a) provide the Supplier with full and safe access to the Equipment for the purposes of this Agreement; any period during which such access is denied or prevented shall not count towards the fix time

(b) provide adequate working space around the Equipment for the use of the Supplier's personnel and shall make available such reasonable facilities as may be requested from time to time by the Supplier for the storage and safekeeping of test equipment and spare parts

(c) where appropriate, ensure that in the interest of health and safety that the Supplier's personnel, while on the Customer's premises, for the purposes of this Agreement, are at all times accompanied by a member of the Customer's staff familiar with the Customer's premises and safety procedures.

3 Notification and Information

(a) as soon as reasonably practical notify the Supplier if the Equipment needs maintenance or is not operating correctly. Failure by the Customer to notify the Supplier shall free the Supplier from all obligations to investigate or correct such failure or incorrect working where the Supplier reasonably considers that such failure to be notified by the Customer has materially affected the Supplier's ability to perform the Services or has materially affected the work required to be carried out by the Supplier

(b) subject to Clause 14 (3) promptly make available to the Supplier's personnel
i) the latest configuration for the Equipment and
ii) such programs, operating manuals and information as may be necessary to enable the Supplier to perform its obligations hereunder and shall if requested by the Supplier provide staff familiar with the Customer's programs and operations, which staff shall co-operate fully with the Supplier's personnel in the diagnosis of any malfunction of the Equipment

(c) where the latest Equipment configuration has not been made available to the Supplier's personnel in b i) above the Supplier shall only be obliged to use its reasonable endeavours to perform a functional fix or replacement. The Supplier reserves the right to charge the Customer for any return visit to complete the operational fix or replacement

(d) at all times keep a record of the use of the Equipment in a form to be approved by the Supplier and at the Supplier's request provide the Supplier with copies of the entries and allow the Supplier to inspect such record at all reasonable times

(e) if the Supplier is requested to supply any Services in respect of any Additional Equipment, advise the Supplier forthwith of the date of installation of such Additional Equipment at the Location.

4 Miscellaneous

(a) provide such telecommunication facilities as are reasonably required by the Supplier for testing and diagnostic purposes at the Customer's expense

(b) keep full security copies of the Customer's programmes, databases, data backups and computer records in accordance with best computing practice.

6. DURATION

This Agreement shall commence on the Commencement Date, shall continue for the Initial Period and shall remain in force thereafter unless or until terminated by either party giving to the other not less than ninety (90) days prior written notice of termination expiring on the last day of the Initial Period or at any time thereafter but shall be subject to earlier termination as provided elsewhere in this Agreement.

7. LIABILITY

(1) The Supplier and the Customer each acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement and any conditions, warranties, representations, understandings or other terms, whether express or implied, statutory or otherwise, are excluded from this Agreement (including, without limitation, the implied conditions, warranties or other terms as to satisfactory quality, fitness for purpose and the use of reasonable skill and care) to the fullest extent permitted by law.

(2) No representation or warranty is given by the Supplier that all faults will be fixed within a specified period of time.

(3) The Customer acknowledges that save as set forth in the Agreement the Supplier does not and shall not have any liability to the Customer (whether in contract or delict, strict liability or otherwise) for loss, damage or injury of any kind howsoever arising.

(4) Subject to Clauses 7(5) 7(6) and 7(7), the Supplier will accept liability for direct physical damage to persons or property on the premises where the Equipment is installed which is caused by the negligence of the Supplier or its employees or other claims for direct financial losses which are not excluded by this Clause 7.

(5) The supplier shall under no circumstances be liable for any losses or damage which may be suffered by the Customer (or any person claiming under or through the Customer) whether the same arise in contract, delict, (including negligence) or otherwise howsoever, which fall within any of the following categories:- (i) loss of use, interruption of business, profits, anticipated savings, goodwill, revenue, turnover, contracts, reputation, loss or damage to, (including corruption of) data (whether the same are suffered directly or indirectly) or (ii) for any indirect, special or consequential loss.

(6) Subject to Clause 7(7) the total liability under this Agreement or otherwise, whether in contract, delict (including negligence) or otherwise (and whether or not caused by the negligence of the Supplier, its employees or agents) arising out of or in connection with this Agreement shall not exceed the sums received by the Supplier from the Customer in the calendar year in which the liability arises.

(7) Notwithstanding the foregoing, nothing in this Agreement shall affect either party's liability to the other for (i) death or personal injury resulting from its own or that of its employees', agents' or sub-contractors' negligence, (ii) fraud or fraudulent misrepresentation, (iii) breach of the obligations implied or imposed by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982, 1982 or under Part 1 of the Consumer Protection Act 1987 and (iv) any other liability which cannot be excluded by law, which liability shall not be limited.

8. FORCE MAJEURE

Neither party shall be liable for any delays in performing any of its obligations hereunder (excepting obligations to pay) if such delay is caused by circumstances beyond the reasonable control of the party so delayed and such party shall be entitled to a reasonable extension of time for the performance of such obligations.

9. TERMINATION

(1) This Agreement shall remain in force until terminated in any of the following ways:

(a) By either party giving ninety (90) days written notice to the other in accordance with Clause 6, or until the number of units are used up, or

(b) By either party forthwith for failure of the other to remedy a material breach of this Agreement after receipt of reasonable notice requiring it to do so, or

(c) Forthwith by the Supplier if the Customer fails to pay any amount due under this Agreement after reasonable notice requiring it to do so, or

(d) Forthwith by the Supplier if the Customer shall become insolvent or go into liquidation (within the meaning of the Insolvency Act 1986 or any modification or goes into liquidation or enters into a composition with its creditors or shall be unable to pay its debts within the meaning of Sec 123 of the Insolvency Act 1986 or if a receiver or administrator or similar officer is appointed or an application is made to the court for such appointment over all or part of the assets, or is subject of a winding up order or undergoes or is subject to any analogous act or event in any foreign jurisdiction.

(e) No refund is available if all the units are not used in one calendar year. Their value may be re-assigned by agreement with Dacoll Limited.

(2) If this Agreement shall be terminated lawfully by the Customer in accordance with the above the Customer shall be entitled to a refund of the Charges from the Supplier in respect of the unexpired portion of any period for which it was paid such charges (calculated on a monthly basis). No refund of any part of any Charges shall be made on termination of this Agreement in any other circumstances.

10. CONSEQUENCES OF TERMINATION

(1) On expiry or termination of this Agreement:-

(a) the Customer's right to receive the Services shall cease automatically;
(b) each party shall immediately return to the other all property and materials containing confidential information belonging to the other; and
(c) all amounts due from the Customer under this Agreement shall be paid immediately by the Customer. The Supplier shall submit invoices for any Services that it has supplied but for which no invoices have been submitted and the Customer shall pay these invoices immediately on receipt.

(2) Expiry or termination of this Agreement (howsoever occasioned) shall not affect any accrued rights or liabilities of either party, nor shall it affect the coming into force or the continuance in force of any provision of this Agreement which is expressly, or by implication, intended to come into force or continue in force on or after that expiry or termination.

(3) Expiry or termination of this Agreement shall be without prejudice to Clauses 1 (Definitions and Interpretation), 3 (Charges), 7 (Liability), 10 (Consequences of Termination), 13 (Non Solicitation), 14 (Confidentiality & Data Protection Compliance) and 23 (Governing Law and Jurisdiction) which shall continue in full force and effect.

11. ASSIGNATION

This Agreement is personal to the Customer. The Customer shall not assign, novate, charge, subcontract or deal in any manner with any or all of its rights and obligations under this Agreement without the prior written consent of the Supplier. The Supplier may at any time assign, novate, charge, subcontract or deal in any other manner with any or all of its rights and obligations under this agreement provided it gives written notice to the Customer.

12. SUB-CONTRACTS

The Supplier may enter into any sub-contract with any person for the performance of all or any part of this Agreement and, if so requested by the Customer, shall supply the Customer with details of such sub-contractor. The Supplier shall not be relieved from any of its obligations hereunder by entering into any sub-contract for the performance of any part of this Agreement.

13. NON SOLICITATION

(1) The Customer acknowledges that the Supplier has incurred significant costs in recruitment and training its' employees and/or third party contractors to enable it to provide the Services. Accordingly the Customer agrees that it will not, and it

will ensure that no other establishment within its group will not, solicit or approach in any way, any of the Supplier's employees and/or third party contractors who are involved in the provision of the Services with a view to offering employment or to solicit services from them on their own account (whether for the Customer or another party) during the period of this Agreement and for a period of twelve (12) months after termination or expiry of this Agreement.

(2) Liquidated damages for breach of the foregoing provision will be equal to such sum charged for the services of such employee and/or third party contractor for a period of thirteen (13) weeks at the Supplier's standard rate. Details of such rates can be obtained from the Supplier on demand. The parties agree that such sum is a genuine pre-estimate of the costs which the Supplier previously employing or contracting with the individual will incur in finding and training a replacement for that person.

14. CONFIDENTIALITY & DATA PROTECTION COMPLIANCE

(1) Each party shall treat as confidential all information obtained from the other pursuant to this Agreement and shall not divulge such information to any person (except to such party's own employees and then only to those employees who need to know the same) without the other party's prior written consent; provided that this Clause shall not extend to information (i) which was rightfully in the possession of such party prior to the commencement of the negotiations leading to this Agreement, or (ii) which is already public knowledge or becomes so at a future date (otherwise than as a result of a breach of this Clause) or (iii) which is disclosed in published materials or (iv) which has been lawfully obtained from any third party who to the knowledge of the recipient does not owe an obligation of confidence in respect of such information or (v) which is required to be disclosed by law or court order.

(2) Each party shall ensure that its employees are aware of and comply with the provisions of this Clause. If the Supplier shall appoint any sub-contractor then the Supplier may disclose confidential information to such sub-contractor subject to such sub-contractor giving an undertaking in similar terms to the provisions of this Clause. The foregoing obligations as to confidentiality shall survive any termination of this Agreement.

(3) The Customer's obligations under Clause 5(3)(b) to make available the information therein mentioned shall be subject to the Supplier signing such confidentiality undertakings as may be reasonably required by or to protect any third party having rights in such information prior to the same being made available.

(4) In so far as either party is acting as a data controller in relation to the provision and receipt of the Services, that party shall ensure that it shall at all times comply with the provisions and obligations imposed by the Data Protection Act 1998 and the Data Protection Principles in storing and processing personal data.

(5) In relation to any personal data processed by the Supplier on behalf of the Customer pursuant to this Agreement:-

(i) the Customer shall at all times while the Supplier continues to process such personal data act as and maintain the role of the owner and data controller of such personal data;

(ii) the Supplier shall at all times while it continues to process such personal data act as and maintain the role of data processor of such personal data and shall only process the personal data as instructed in writing by the Customer or as in accordance with this Agreement; and

(iii) the Supplier shall take what it considers to be appropriate technical and organisational security measures against unauthorised or unlawful processing of the personal data and against accidental loss, destruction of, or damage to the personal data.

(6) All personal data acquired by either party from the other shall be returned to the disclosing party on request. Both parties shall indemnify each other in respect of any unauthorised disclosure of personal data. The parties hereby acknowledge that performance of a duty imposed by the Act, shall not constitute a breach of any obligation in respect of confidentiality which may be owed to the other party.

15. WAIVER

(i) Failure or neglect by either party to enforce at any time any of the provisions hereof shall not be construed nor shall be deemed to be a waiver of either parties rights hereunder nor in any way affect the validity of the whole or any part of this Agreement nor prejudice either parties rights to take subsequent action.

(ii) The rights and remedies provided in this Agreement are cumulative and (subject as otherwise provided in this Agreement) are not exclusive of any rights or remedies provided by law.

16. SEVERABILITY

If any of these terms, conditions or provisions shall be determined invalid, unlawful or unenforceable to any extent, such term, condition or provision shall be severed from the remaining terms, conditions and provisions which shall continue to be valid to the fullest extent permitted by law.

17. ENTIRE AGREEMENT

(1) This Agreement, including the Schedule, states the entire agreement between the parties on this subject and supersedes all prior negotiations, understandings and agreements between the parties concerning the subject

matter. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

(2) Without limiting the generality of the foregoing, neither party shall have any remedy in respect of any untrue statement made to it upon which it may have relied in entering into this Agreement, and a party's only remedy is for breach of contract. Notwithstanding the foregoing, nothing in this Agreement purports to exclude liability for any fraudulent misrepresentation, statement or act.

(3) No variation of this Agreement shall be effective unless it is in writing and signed by the parties.

18. CONFLICT

This Agreement shall prevail over any printed or conflicting terms contained in the Customer's Purchase Order and may be modified or waived only by a written agreement signed by authorised representatives of the party.

19. NOTICES

Any notice required to be given under this Agreement shall be given by sending the same by first class registered post, addressed to the party required to be served at the address for such party shown in this Agreement or such other address as he shall have given for service upon him. Any notice given pursuant to this Clause shall be deemed to have been given forty-eight hours after the time of posting and service thereof shall be sufficiently proved by proving that the notice was duly despatched through the post in a prepaid envelope addressed as aforesaid.

20. NO PARTNERSHIP, JOINT VENTURE OR AGENCY

Nothing contained in this Agreement shall be deemed to constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement. In the performance of this Agreement, the status of each party including its employees and agents shall be that of independent contractor and not of employee, agent or fiduciary of the other party. Neither party shall have, nor represent that it has, any authority to make any commitments on behalf of the other party.

21. THIRD PARTY RIGHTS

No term of this Agreement is intended to confer a benefit on, or to be enforceable by, any party who is not a party to this Agreement.

22. CONTRACT REVIEW MEETINGS

(1) The Supplier and the Customer shall participate in contract review meetings which will meet to:

- (i) consider any future strategy and make recommendations to stop, suspend or modify any practice or component of the Services;
- (ii) review each party's performance against their respective obligations to provide the Services under individual call-off contracts;
- (iii) review and recommend for approval by the Parties any amendments or modifications to the scope or terms of this Agreement; and
- (iv) endeavour to resolve any matters of interpretation, disputes, disagreements or modifications to the scope or terms of this Agreement.

(2) The contract review meetings shall be held as may be agreed by both parties.

(3) The Supplier and the Customer shall participate in service delivery review meetings as detailed in Parts 2 to 5 of the schedule.

23. GOVERNING LAW AND JURISDICTION

The parties hereby agree that this Framework Agreement for the Provision of Services concluded between them and constituted on these terms and conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation hereunder (including non-contractual disputes or claims) shall be construed in accordance with Scots law. Any legal action brought concerning this Agreement or any dispute hereunder (including non-contractual disputes or claims) shall be brought only in the Scottish Courts. Both parties submit to venue and jurisdiction in these courts.

Schedule – Part 1

The Services, Commencement & Initial Period

1. The Services

(ii) Hardware Maintenance Services	YES/NO
(iii) Prime Support Managed Services	YES/NO
(iv) Hosting Services	YES/NO
(v) Others (to be specified)	YES/NO
- see Part 5 of Schedule	
(Delete as applicable)	

2. The Commencement Date

(Insert Date)
notwithstanding the date or dates of signing of this Agreement.

3. The Initial Period

From: (Insert Date)
To: (Insert Date)

Schedule - Part 2

The Maintenance Services

1. Description

The Maintenance Services shall include the supply and fitting free of charge of all standard parts necessary for the efficient working of the Equipment. Worn or broken parts replaced permanently in accordance with the Maintenance Services will become the property of the Supplier.

The Supplier reserves the right to send to the Customer replacement items such as keyboards, mice and monitors (max diameter 19 inch) for installation by the Customer.

(1) Response Time

On receipt of a request for corrective maintenance the Supplier undertakes to use its reasonable endeavours to respond with a suitably qualified service engineer within the Response Time specified in this Part 2 of the Schedule during Maintenance Hours.

(2) Corrective Maintenance

The Supplier shall during Maintenance Hours use its reasonable endeavours to carry out such repairs and adjustments to and replace such parts of the Equipment as may be necessary to restore the Equipment to its proper operating condition.

(3) Service Reports

Upon completion of remedial work a duly authorised representative of the Customer shall, if the Supplier so requests, sign a Service Report Form (in such form as may be specified by the Supplier) in duplicate confirming the Customer's instructions to the Supplier to carry out such work and specifying the work completed by the Supplier to the Customer's satisfaction.

(4) Non-Serviceable Items

Whenever the Supplier considers that for any reason an item is beyond economical repair it will advise the Customer of this whereupon the item will either be replaced or reconditioned at the Customer's expense and remain covered by this Agreement or be excluded from this Agreement upon a written declaration to that effect by the Supplier to the Customer subject to a rebate by the Supplier of the appropriate proportion of the unexpired fee for that item excluded from this Agreement.

(5) Inspection

Where equipment has not been supplied and installed by the Supplier or its agents immediately prior to the Commencement Date the Supplier may require that an inspection be carried out at the Customer's expense by Supplier's staff prior to acceptance of equipment under this Agreement. The Supplier reserves the right to refuse support of equipment that fails such inspection unless the Customer agrees to pay for the costs of any remedial work considered necessary by the Supplier.

(6) No Fault Found

The Supplier reserves the right to apply its current listed support charges to the Customer whenever reported faults in the Equipment are not evidenced within a reasonable time of the attendance of Supplier's staff at the Location.

2. Exceptions (Out of Scope)

(1) The Maintenance Services do not include any maintenance of the Equipment which is necessitated as a result of any cause other than use of the Equipment in accordance with the manufacturer's recommendations or as a result of the Customer's negligent act or omission, neglect or default and does not include without limitation:

- (a) failure or fluctuation of electric power, air-conditioning, humidity control or other environmental conditions; or
- (b) accident, transportation, relocation, reinstallation, neglect, misuse or default of the Customer, its employees or agents or any third party; or
- (c) any fault in any attachments or associated equipment which do not form part of the Equipment; or
- (d) act of God, fire, flood, natural disaster, act of government, war, riot, act of violence (including terrorism) civil commotion or any other similar occurrence; or
- (e) any attempt by any person other than the Supplier's personnel to adjust, repair or maintain the Equipment; or
- (f) wilful damage and/or excessive wear and tear;
- (g) maintenance where Equipment was not in an operational condition on the Commencement Date.

(2) The Maintenance Services do not include:

- (a) service other than at the Location (or such other location as the Supplier shall have approved in advance in writing);
- (b) repair or renewal of the following:

Physical user damage	Reconditioned toner, consumables
Network fault/line fault	Optional extras – paper trays, etc over and above manufacturers specification
Manufacturer modifications	Door or cover hinges (all plastics)
Scanner feed rollers, where user changeable	Using kit outside manufacturer's specification
Laptop batteries	Thermal wax, paper separation pads
Fusers (All)	Hammer modules/banks
Toners (All)	Batteries (All) e.g. laptops, UPS's CMOS
Filters (All)	Physical User Damage
Ribbons	Cabling up to network card
Bulbs/lamps	Print heads (all),
Developer	Print Bands/Modules/Shields
User error	EP Cartridges
Power leads	PCMCIA cards and cables (unless defined in equipment list)
Purge Units	Ink cartridges
LCD, TFT or Touch Screen Panels	Drum kits
Tapes	Corona charge wires
Disk Packs	Tape drive heads
Daisy Wheels	Gas plasma displays
Manufacturer recommended PM kits	Cathode ray tubes
Painting or refinishing the equipment	Other Consumable supplies
Software related errors	

- (c) Failure or performance issues due to age of equipment e.g. beyond manufacturers recommended life expectancy
- (d) Low emission CRT
- (e) Hardware and Software incompatibilities
- (f) Micro code upgrades/BIOS upgrades

- (g) Maintenance or support of the operating system software of any computer unless stated in the Schedule;
- (h) Electrical or other environmental work external to the Equipment;
- (i) Maintenance of any attachments or associated equipment (whether or not supplied by the Supplier) which do not form part of the Equipment;
- (j) Recovery or reconstruction of any data or programs lost or spoiled as a result of any breakdown of or fault in the Equipment, unless stated in the Schedule; and
- (k) Operating supplies and accessories.
- (l) Virus Infection
- (m) Abortive visits

The Supplier will carry out support work on behalf of the Customer which is classed as 'Out of Scope'. 'Out of Scope' support work will be carried out, on a chargeable basis (labour, including travel within mainland UK, plus the cost of parts). 'Out of Scope' support can be defined in the examples above, this list is not restrictive or exhaustive:

3. The Equipment & Site Number(s) – See equipment list attached

4. Maintenance Hours

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5. Response Time

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6. Special Conditions

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7. Maintenance Charges

1. £ + VAT per annum during the Initial Period 2. First charge payable by the Commencement Date 3. Subsequent charges payable annually in advance of the anniversary of the Commencement Date.
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Prime Support Managed Services

1. **Service(s) Description as per quote xxxxx attached**

2. **Others, see Schedule 5**

3. **The Equipment & Site Number(s) – See equipment list in Schedule Part 2**

4. **Monitoring Hours**

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5. **Response Time**

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6. **Special Conditions**

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7. **Prime Support Managed Services Charges**

4. £ + VAT per annum during the Initial Period 5. First charge payable by the Commencement Date 6. Subsequent charges payable annually in advance

Hosting Services

1. Description as per quote xxxxxxxxxxxxxx attached

2. Others, See Schedule 5

3. The Equipment & Site Number(s) – See equipment list in Schedule Part 2 !

4. Host Service Hours

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5. Response Time

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6. Special Conditions

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7. Hosting Charges

7. £ + VAT per annum during the Initial Period 8. First charge payable by the Commencement Date. 9. Subsequent charges payable annually in advance of the anniversary of the Commencement Date.
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Schedule – Part 5
Others (as specified)

Charges*The Charges*

- | | | | |
|----|--|-----|--|
| 1. | Subscription Charge | - £ | + VAT (one off payment only, payable by the Commencement Date) |
| 2. | Charges for Services specified
In Parts 2, 3, 4 and 5 of the Schedule | - £ | + VAT per annum, payable annually in advance from the Commencement Date. |