



Intelligence
Hosting
Services

Intelligence Hosting Services Limited

Terms & Conditions

Version 1.0 – 19/02/2018

Part 1 – General Terms & Conditions

Intelligence hosting services provide an array of hosted IT products which consist of colocation rack rental, private cloud server and storage rental, fully managed service infrastructure rental and cloud VOIP (Voice Over Internet Protocol) telephone system rental in a purpose built, secure data centre.

These Conditions govern the use by your organisation (or the organisation you represent) (referred to herein as "**Customer**" or "**you**") of Intelligence Hosting Services Limited. By signing and agreeing to these terms and conditions you agree to these Conditions binding your use of Intelligence Hosting Services data centre and infrastructure. And your attention is particularly drawn to the provisions of clauses 18, 5.12 and 15.3 relating to limitations of liability and indemnities.

Intelligence Hosting Services shall not be obliged to provide you with and of our services, and you shall not be obliged to pay any Fees, until an Order is submitted to and accepted by Intelligence Hosting Services. The acceptance by Intelligence Hosting Services of an Order for any of our services in accordance with and subject to these Conditions creates a legal agreement between you and Intelligence Hosting Services (as defined below) comprising such Order and these Conditions.

If you do not agree to be bound by these terms and conditions you must not use or access any hardware, software or other infrastructure services that reside within the data centre or the property where Intelligence Hosting Services are located.

1. INTERPRETATION

Definitions:

- 1.1 "Acceptable Use Policy, AUP"** means the acceptable use policy in relation to the use by the Customer of the Equipment or the Services as published by the Supplier from time to time on the Intelligence Hosting Services Website
- 1.2 "Administration Form"** means the administration form setting out details of contacts and other administration communication information to be completed by the Customer;



- 1.3** "**Affiliate**" means, in relation to a person, any other person or entity which directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, that person from time to time;
- 1.4** "**Applicable Law**" means: (a) any statute, regulation, by-law, ordinance or subordinate legislation in force from time to time to which a party is subject including telecommunications laws and any data protection laws; and (b) the common law as applicable to the parties from time to time; and (c) any binding court order, judgment or decree; and (d) any applicable industry code, policy or standard enforceable by law; and (e) all other applicable rules, regulations, instruments and provisions in force from time to time, including the rules, codes of conduct, codes of practice, practice requirements, guidance and accreditation terms stipulated by any regulatory authority to which any member of your Group is subject from time to time; "Customer" means the person, firm or company who purchases the Equipment, Software and/or Services;
- 1.5** "**Bona Fide Dispute**" shall have the meaning given in clause 5.6
- 1.6** "**Business Day**" means Mondays through Fridays, inclusive, but does not include national, public, or bank holidays in the country or locality where the relevant action is to be taken. Where the day on or by which anything is to be done is not a Business Day, it must be done on or by the next Business Day;
- 1.7** "**Business Hours**" means the hours of 9am to 5:30pm on a Business Day;
- 1.8** "**Cage**" means a suite of Racks or Half Racks.
- 1.9** "**Change of Law**" means any change in any Applicable Law which impacts on the performance of Intelligence Hosting Services inbound and outbound lease line connections terminating at the connections internet service provider and which comes into force after the Service Commencement Date;
- 1.10** "**Charges**" means the charges for the Services and/or Equipment as set out in, or capable of being calculated in accordance with the terms of, the Order Form (and as varied from time to time in accordance with Clause 5);
- 1.11** "**Co-location Facility**" means the co-location facility set out in the Order Form of Intelligence Hosting Services from time to time where any of the Customer Equipment, the Dedicated Server and / or Network Equipment is located. Details of the co-location facilities of Intelligence Hosting Services can be found on the Supplier Website and Order Form;
- 1.12** "**Commencement Date**" means the commencement date set out within the Order Form;



- 1.13 **"Conditions"** means these conditions;
- 1.14 **"Intelligence Hosting Services Infrastructure"** means the physical equipment and components upon which the Intelligence Hosting Services platform resides, and from which Intelligence Hosting Services products and services are provided;
- 1.15 **"Conditions"** means these standard terms and conditions governing the provision and use of data centre infrastructure within property owned and serviced by Intelligence Hosting Services;
- 1.16 **"Confidential Information"** means all information of a confidential nature which is disclosed by one party (the **"Discloser"**) to the other party (the **"Recipient"**) (whether or not such information is expressly stated to be confidential or is marked or otherwise indicated as such), excluding Data but including all information whether of a technical or business nature or otherwise relating in any manner to the business or affairs of the other party which either party or its Affiliates may receive or has received in connection with these Conditions or an Order whether in whole or in part and regardless of the medium by which such information is supplied, as further set out in Clause 10;
- 1.17 **"Connection"** means the Leased Line or Metro Ethernet, EFM, SDSL or other broadband network connection provided from an appropriate access point of presence to the Customer cage;
- 1.18 **"Connection Point"** means (a) where you are a Physical Customer, the location of your Customer Equipment within a Data Centre, or (b) where you are a Virtual Customer, the location of the relevant Third Party Equipment within a Data Centre (for instance, where you access the data centre via a Third Party telecommunications carrier);
- 1.20 **"Contract"** means the contract between the Supplier and the Customer and consisting of the Order Form, the Administration Form, related Provisioning Form(s) (if any) and these Conditions;
- 1.21 **"Customer"** means the person, company, or other entity identified within the relevant Order Form;
- 1.22 **"Customer Materials"** as is defined in Clause 6.1.2;
- 1.23 **"Customer Nominated Contacts"** means the Customer's nominated contacts who is authorised by the Customer to request administration and or technical changes to the Services or Equipment whose details are contained in the Administration Form or as otherwise updated from time to time;



- 1.24** "Customer Premises" means the Customer's office(s) or designated location(s) as specified in the Order Form;
- 1.24** "Customer Equipment" means any and all Equipment installed and supported by the Customer or third parties in the Co-location Facility or at the Customer Premises in the case of network services, as specified in the Order Form;
- 1.25** "DDoS" means distributed denial of service attack, being when the bandwidth or resources of a targeted system are exhausted or flooded by one or more compromises systems so as to materially adversely affect the operation of the targeted system. "DoS" means a denial of service attack being an attempt to make a targeted system unavailable to its intended users;
- 1.26** "Direct Debit Instruction" means an instruction to Customer's bank or building society to pay the Supplier the Charges under the Direct Debit Guarantee;
- 1.27** "Direct Debit Guarantee" means the direct debit guarantee contained within the Order Form;
- 1.28** "DPA" mean the Data Protection Act 1998;
- 1.29** "Equipment" means and includes all network, dedicated server and other equipment, hardware, devices, managed router, firewall device(s), software managed device(s), VPN and loader balancers, whether being used by the Supplier to provide the Services, or by the Customer, to receive them;
- 1.30** "Event of Force Majeure" means any causes beyond the Supplier's reasonable control including but not limited to fires, floods, lightening, war, revolution, act of terrorism, riot, civil commotion, act of God, industrial disputes, strikes (of its own or other party's employees), casualties, accidents, power failure, breakdown in equipment, failure of suppliers, failures of transportation, telecommunications failures or internet downtime or available bandwidth shortage and such other circumstances set out within Clause 15.1;
- 1.31** "Flexible" means the method for measuring bandwidth where it is capped and billed at the agreed contracted (committed) rate per Mb (Megabits);
- 1.32** "Floor Space" means the floor space (measured in square metres) at the Co-location Facility required by, or allocated to, the Customer for the purposes of the Contract;
- 1.33** "Generator" means diesel generator used as a redundant power backup facility in case of an external power grid failure



- 1.34 "Good Industry Practice"** means the exercise of that degree of skill, diligence, prudence, foresight and practice which would reasonably and ordinarily be expected from a skilled and experienced person engaged in providing or receiving services which are the same as or similar to the Services;
- 1.35 "Half Rack"** means the space equivalent to either the top or bottom half or a 42Unit high 19" rack;
- 1.36 "IDS"** means Intrusion Detection Software;
- 1.37 "IP"** means internet protocol;
- 1.38 "IP Address(es)"** means an internet protocol address;
- 1.39 "IPR"** means any of the following rights arising or granted under the law of any jurisdiction: (i) patents; (ii) petty patents and utility model rights; (iii) registered trademarks; (iv) registered design rights; and (v) applications for and rights to apply for and ownership claims related to the rights set out in items (i) to (iv) inclusive; (vi) copyrights; (vii) database rights; (viii) unregistered design rights; (ix) rights of action in relation to confidential information; (x) rights of action in relation to trade names, trading styles, product packaging and any other trade get-up; (xi) rights of action in relation to domain names; and (xii) any other industrial or intellectual property rights;
- 1.40 "IP Transit"** means a connection to the Internet using the TCP/IP protocol, provided at a particular bandwidth or speed. The bandwidths and speeds quoted are maximum theoretical line speeds and actual throughput will be affected by a variety of factors including, but not limited to: latency, operating system version and settings, host capability and load, and congestion on the Internet beyond the Supplier's network;
- 1.41 "Leased Line"** means a symmetric telecommunications line connecting two locations.
- 1.42 "Licensed Space"** means the space allocated to the Customer Equipment by the Supplier at the Co-Location Facility, being determined in Floor Space Racks, Quarter Racks, Half Racks or individual Units and/or incorporating a Cage;
- 1.43 "Minimum Period"** means the minimum period or contract length specified in the Order Form, or if no Contract length is specified, then the Minimum Period is one (1) month from the Service Live Date;



- 1.44 "Network Equipment"** means any and all firewall, VPN, load balancer or other network Equipment owned and installed by the Supplier for use by the Customer in the Co-location Facility;
- 1.45 "Order Form"** means the order form (and any schedules to the order form) completed by the Customer and the Supplier which sets out and agrees the Equipment and / or Services to be supplied to, or utilised by the Customer, pursuant to these Conditions together with the Charges;
- 1.46 "Provisioning Form(s)"** means the form on which technical, operational and any other service details specific to the Customer needs associated with the Services requested in the Order Form should be set out and which for the avoidance of doubt shall be completed after entering into this Contract;
- 1.47 "Racks"** means racks or rack space units which unless otherwise stated measure 600mm wide x 1000mm deep usable space for a 19" rack system, not including appropriate corridor space;
- 1.48 "Recurring Charges"** means any element of the Charges which is payable periodically (e.g. weekly or monthly) as set out in the Order Form;
- 1.49 "Service Level"** means any service level standards which the Supplier has agreed in relation to a Service being the service level standards set out in these Conditions, the Order Form or otherwise agreed by the Supplier in writing;
- 1.50 "Service Live Date"** means the first date on which the Services have been delivered to the Customer in accordance with the requirements of the Contract and have become available for use by the Customer;
- 1.51 "Services"** means the Services being provided by the Supplier to the Customer as specified in the Order Form as such Services may be modified from time to time in accordance with these Conditions;
- 1.52 "Set Up Charges"** mean that element of the Charges which consists of initial one off charges as shown in the Order Form;
- 1.53 "Supplier Equipment"** means any Equipment used by the Supplier to provide any of the Services to the Customer other the Customer Equipment;
- 1.54 "Supplier IP Address"** means a resource IP Address or IP Addresses which are capable of aggregation and which have been obtained by the Customer from the Supplier;



- 1.55 **"Supplier Network"** means the Supplier core IP networks designed, built and operated by the Supplier;
- 1.56 **"Supplier's Website"** means the website at url <https://www.intelligencehs.co.uk> (or such other url as the Supplier may notify to the Customer from time to time);
- 1.57 **"TCP"** means transmission control protocol;
- 1.58 **"Units"** means standard 4.2cm Units of height in a Rack, and/or multiples thereof;
- 1.59 **"UPS"** in the context of a battery system, an "Uninterruptible Power Supply";
- 1.60 **"VAT"** means value added tax chargeable at the prevailing rate for the time being in the United Kingdom and any tax which may be substituted for or levied in addition to it or any value added, sales, turnover or similar tax imposed in any other country;

In these Conditions unless the context otherwise requires:

- 1.61 a reference to a "Clause" is to the relevant Clause of these Conditions, unless otherwise stated;
- 1.62 the Clause headings in these Conditions are for convenience of reference only and shall not affect the construction or interpretation hereof;
- 1.63 words importing the singular shall include the plural and vice versa, words importing a gender shall include every gender and references to persons shall include firms and bodies corporate, where appropriate;
- 1.64 a reference to a statute, statutory provision or any subordinate legislation shall unless otherwise stated be construed as including a reference to that statute, provision or subordinate legislation as from time to time modified or consolidated, superseded, re-enacted or replaced (whether with or without modification);
- 1.65 references to a party shall, except where the context otherwise requires, include its successors in title and permitted assigns;
- 1.66 any use of the words "include", „including" or „in particular" (or similar words or phrases) shall not be limited to the words that follow;

2 Basis of Contract



- 2.1** These Conditions shall apply to and be incorporated into the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing;
- 2.2** No contract shall be created between the Supplier and the Customer for the provision of the Services unless and until the Supplier has signed the Order Form along with Administration Form and Direct Debit Instruction and delivered it to the Customer, except (if earlier) the Supplier has commenced providing the Services, in which case a contract will be deemed to have come into existence on the basis of the terms of the Contract from the date on which the provision of the Services by the Supplier commenced.

3 The Services

- 3.1** Subject to the due and punctual payment of the Charges by the Customer and the performance of its obligations in terms of Clause 6, and subject to Clause 3.2, the Supplier shall provide the Services to the Customer.
- 3.2** The Services are provided to the Customer on a non-exclusive basis so that the Supplier is entitled to provide similar services to other Customers as it sees fit, provided always that this does not interfere with, or adversely affect, the Customer's use of the Services it is receiving from the Supplier.
- 3.3** The Customer further acknowledges that the Order Form may also provide that any Set Up Charges and a payment for the first Month of Services (being part of the Recurring Charges) shall be payable on in advance of the commencement of the Services.
- 3.4** The Services will be provided:
- 3.4.1** with reasonable care and skill;
 - 3.4.2** in accordance with Good Industry Practice and all laws applicable to the provision of the Services in the United Kingdom;
 - 3.4.3** in all material respects in accordance with the Service Levels.
- 3.5** Save as provided in these Conditions, all other warranties, express or implied, are strictly excluded to the fullest extent permitted by law. In particular, the Supplier does not give any warranties, guarantees or assurances regarding the performance of:
- 3.5.1** the Equipment and/or the Services when used with, or run in conjunction with, any particular operating systems and/or software (including Supported Software) of the Customer or any third parties; and/or



3.5.2 any operating systems and/or software (including Supported Software) of the Customer or any third parties when they are used with, or run in conjunction with, the Equipment and/or the Services.

3.6 The Customer acknowledges and agrees with the Supplier that:

3.6.1 the Customer is responsible for ensuring that before using any operating systems or applications (including Supported Software) in conjunction with the Equipment and/or the Services; and

3.6.2 the performance of such operating systems or applications (including Supported Software) and the Equipment and/or the Services when used together or run in conjunction with each other are satisfactory to the Customer and for its purposes

4 Amendments and additional services

4.1 The Supplier is entitled to change these Conditions from time to time and will display the changed Conditions at <https://www.intelligencehs.co.uk/tou>. The Supplier will give the Customer at least sixty (60) days' notice of such change which shall take effect at the end of the sixty (60) day period.

4.2 Where the Supplier has given the Customer notice of a change to the Conditions in terms of Clause 4.1 and such changes will have a material adverse effect on the Customer, the Customer shall be entitled to terminate this Agreement by giving the Supplier not less than thirty (30) days prior notice in writing to that effect provided that the thirty (30) day notice period given by the Customer must have expired before the change to the Conditions has taken effect.

4.3 The Supplier may at its discretion also provide from time to time such additional support services beyond the scope of the Services being provided to the Customer as of the Commencement Date, as the parties agree in writing in advance. The pricing for such additional services will be set out and agreed in writing by the parties.

5 Charges and payment

5.1 Prior to the Commencement Date, and as a pre-condition to commencement of the Services the Customer shall complete and provide to the Supplier the Administration Form.

5.2 Subject to Clause 5.6, where applicable, as consideration for the provision by the Supplier of the Services, the Customer will pay the Charges as follows:



- 5.2.1** the Supplier will invoice the Customer for the Charges for the Services at the frequency specified in the Order Form, and the Customer will pay the full invoice amount in pounds sterling;
 - 5.2.2** in respect of the Set Up Charges or other Charges payable pursuant to the first invoice raised by the Supplier, by electronic payment to the Supplier's nominated bank account, details of which will be included in the invoice;
 - 5.2.3** in respect of all Recurring Charges, by direct debit with the frequency and on the date or dates referred to in the Order Form, again to the Supplier's nominated bank account, details of which will be included in the Direct Debit Instruction; or
 - 5.2.4** if otherwise agreed in writing by the Supplier in writing, by any other means of payment acceptable to the Supplier from time to time.
- 5.3** The Customer shall pay all amounts in full within seven (7) days of the date of the Supplier's invoice unless where otherwise or previously agreed in an active contract.
- 5.4** All payments by the Customer shall be made by the Customer in pounds sterling (£) and without deduction or set off of any amount.
- 5.5** For the avoidance of doubt, the Charges are expressed exclusive of VAT, and the Customer will pay to the Supplier any VAT properly charged by the Supplier as set out in the invoice.
- 5.6** In the event that the Customer does not pay in full any invoice issued by the Supplier within the payment period referred to in Clauses 5.3., then without limiting any other remedy available to the Supplier, the Supplier may (save where the Customer can demonstrate that it disputes the sum outstanding on bona fide grounds and has otherwise paid all other invoices in full) the following provisions shall apply:
- 5.6.1** in the event that the Customer fails to pay the invoice within seven (7) days after having being notified in writing that such sum is overdue then the Supplier may at its option suspend all Services and, where such services are provided under this Contract, prohibit the Customer from accessing any Co-location Facility;
 - 5.6.2** in the event that the Supplier has not exercised its option as afforded by Clause 5.6.1 and the Customer fails to pay the invoice within a further seven (7) day period (such period running immediately following expiry of the seven (7) day period referred to in Clause 5.2.1) then the Supplier may terminate the provision of the Services except as permitted in clause 5.3.
- 5.7** The Customer will reimburse all costs and expenses (including legal costs) incurred by the Supplier in the collection of any overdue amount.



- 5.8** When referring to network services including SDSL, EFM, Leased Lines, and Metro-Ethernet, the Customer acknowledges the Charges quoted by the Supplier are subject to formal site survey and may vary according to local conditions not known to the Supplier at the time of contracting. Should the Charges be subject to variation after a formal site survey, the provisioning process will be put on hold, and the Customer has the right to either agree to the variation in Charges, or terminate the relevant Contract in writing with no penalty.
- 5.9** The Supplier shall at its option be entitled to increase the Charges in respect of the cost of power as a result of market or supplier increases
- 5.10** The Charges specified in the Order Form are exclusive of, and may be increased without notice as a result of the imposition by any governmental authority of any tax, impost, levy or charge including but not limited to any „green levy“ such as the carbon reduction commitment and the climate change levy. For the avoidance of doubt, the Supplier confirms that only the actual increase caused by any tax, impost, levy or charge will be passed on to the Customer.

Application and payment of fee credits

- 5.11** Fee credits are applicable against loss of service as detailed within Part 3 of this document and where relevant to the specific services contracted to between the supplier and the customer.
- 5.12** If (in the Supplier’s reasonable opinion) only a proportion of any one Service used by the Customer is affected, the Supplier shall credit the Customer’s account with a reasonable proportion of the Fee Credit. For the purpose of calculating the proportion of a Fee Credit due to the Customer, the Supplier (in its sole discretion but acting reasonably) shall determine which proportion of the Services were affected by the Critical Event. The response times will not apply where
- 5.13** The calculation of the Fee Credit shall be based on the Recurring Fees and shall not include any other fees paid by the Customer to the Supplier.
- 5.14** The maximum Fee Credit allowable in any calendar month is limited to the amount of the Recurring Fees payable in that calendar month.
- 5.15** A Fee Credit shall not be credited to the Customer’s account unless the Customer requests it from the Supplier’s accounts department within 14 Business Days of the date on which the relevant Ticket was issued. If the Customer does not claim the Fee Credit in this period, then the Fee Credit will lapse and may not be claimed by the Customer. A Fee Credit which is claimed by the Customer shall be applied by the Supplier as a reduction to the Recurring Fees payable by the Customer to the Supplier and shall be credited in the Supplier’s subsequent invoices.



- 5.16** The parties agree that the Fee Credits shall be its sole and exclusive remedy in the event that the Supplier fails to provide the Service Levels specified in this Service Level Agreement, except in cases where damage to the Customer's equipment occurs as a result of any negligence or breach of contract on the part of the Supplier in which case the provisions of Clause 11 of the Contract shall apply.

Exceptions

- 5.17** Fee Credits will not be given:
- 5.18** in the circumstances set out in paragraphs 29.2 (inclusive) of this Service Level Agreement;
- 5.19** for any lack of service during maintenance;
- 5.20** where the Customer has not paid the Fees by the due date;

6 Customer obligations

- 6.1** The Customer shall at all times:
- 6.1.1** co-operate with the Supplier in all matters relating to the Services;
 - 6.1.2** provide to the Supplier, in a timely manner such materials, documentation and other information ("**Customer Materials**") as the Supplier may reasonably require in order to perform the Services and ensure that the Customer Materials are complete and accurate and in all material respects;
 - 6.1.3** ensure that all Customer Equipment is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom standards, requirements and applicable law;
 - 6.1.4** obtain and maintain all necessary licences and consents and comply with all relevant legislation in relation to the Services, the installation of the Equipment, the use of Customer Materials and the use of the Customer Equipment in relation to the Services insofar as such licences, consents and legislation relate to the Customer's business, staff and equipment;
 - 6.1.5** maintain at its own cost with a reputable insurance company insurance cover against all risks which would normally be insured against by a prudent business (including insurance in relation to the Equipment; any loss or damage caused to the Supplier's property or to the Supplier's employees, agents or subcontractors by the negligence or default of the Customer, or the Customer's employees or agents; or caused by any malfunctioning of the Customer Equipment, and any related loss or business interruption) and shall upon reasonable request provide the Supplier with evidence that such insurance has been effected and is and will be maintained;



- 6.1.6** not use any premises of Intelligence Hosting Services as its registered office or address for correspondence;
 - 6.1.7** comply at all times, and ensure Customer's visitors comply at all times, with all applicable international, EU and UK legislation and health and safety regulations, and in particular (but without prejudice to the generality of the foregoing) with any such legislation regulating the use of the internet, including the Computer Misuse Act 1990 and the Data Protection Act 1998, and any legislation relating to electrical safety and testing of electrical items including (but not limited to) PAT testing;
 - 6.1.8** not hold itself out as being an agent, partner, representative or otherwise being entitled to bind the Supplier or members of Intelligence Hosting Services Limited;
 - 6.1.9** not publish or cause anything to be published, whether in hard copy or by any electronic medium, which contains adverse or derogatory comments about the Supplier or other members of Intelligence Hosting Services Limited;
 - 6.1.10** provide the Supplier with a twenty-four (24) hour contact telephone number (operational and manned twenty four hours per day seven days per week) for use by the Supplier in contacting the Customer in the event of any Critical Event or Noncritical Event. Customer acknowledges and agrees that any notice given to the Customer via such telephone contract number shall be deemed appropriate notice to the Customer of any Main Critical Event or Non-Critical Event and Customer further acknowledges and agrees that any failure by Customer to provide such contact number or ensure such number is operational and manned (as required by this Clause shall relieve the Supplier of any duty to notify the Customer of such events or comply with any of its obligations under this Agreement);
 - 6.1.11** provide the Supplier with a password unique to the Customer to permit telephone call verification as set out in this Contract. Further, the Customer agrees that it will regularly change its telephone verification password (and inform the Supplier of the new password) and will do so every time that any of its staff contractors or agent who have had access to such password leaves its employment or service;
 - 6.1.12** provide the Supplier with the names and e-mail addresses of all persons who are authorised to issue instructions to the Supplier using the Administration Form and/or such other method as specified in the Order Form and where any of those persons cease to be so authorised, to notify the Supplier immediately; and
 - 6.1.13** not put or allow or enable to be put the Equipment and/or the Services to illegal use or in such a way as to bring disrepute to the Supplier or other members of Intelligence Hosting Services Limited;
 - 6.1.14** provide the Supplier with contact details of the Customer's accounts, or accounts payable, department using the Administration Form.
- 6.2** Without prejudice to its other remedies, in the event that Customer fails to adhere to its obligations set out in Clause 6 then the Supplier may suspend or discontinue the Services until



such time that the Customer has cured such failure. The Customer will be liable for the Charges and Recurring Charges during the suspension period.

7 Customer Warranties

7.1 To the extent they are applicable to the Services, the Customer represents, warrants and undertakes to the Supplier that:

- 7.1.1** it will comply in its use of the Services and/or the Equipment (wherever such Equipment is located) with all applicable laws and regulatory requirements;
- 7.1.2** it will comply timeously with its obligations under this Contract, and exercise all due skill and care in doing so;
- 7.1.3** it has all rights, consents, authority on capacity necessary to allow it to:
- 7.1.4** enter into this Agreement on the terms contained herein; and
- 7.1.5** perform its obligations under this Agreement;
- 7.1.6** by the Supplier providing the Services to the Customer, neither the Customer nor the Supplier is breaching the rights of any third party in or in relation to the Supplier Equipment, or any legal or regulatory restraints on such use;
- 7.1.7** it will have responsibility for the Customer Equipment and will ensure that the Customer Equipment is, and will be for so long as it is located in the Licensed Space, maintained in good working order, in accordance with Good Industry Practice, and without affecting the foregoing generality that it complies, and will comply, with all legislative or other legal requirements applicable to it, including any safety standards;
- 7.1.8** it will ensure that the operation or condition of the Customer Premises will comply with any reasonable written requirements of the Supplier from time to time so that same do not adversely affect the correct functioning of the Supplier Equipment;
- 7.1.9** it will ensure that the use of the Connection will comply with any reasonable written requirements of the Supplier from time to time so that same do not adversely affect any other Connections or the use of the Supplier Network by the Supplier or any third party.

7.2 In the event that:

- 7.2.1** the Customer breaches any of its obligations as set out in Clause 6 or any warranties, representations or undertakings as set out in Clause 7, any applicable laws or regulatory, these Conditions or the Acceptable Use Policy (or the Supplier has reasonable grounds to believe that it has committed such a breach); or
- 7.2.2** the Customer's use of the Equipment and / or the Services is the cause (in whole or in part) (or the Supplier has reasonable grounds to believe that it is the cause) of any problem affecting the Equipment, the Services, or any services being provided by the Supplier to a third party via it's network service;



then the Supplier may;

- 7.2.3** at its discretion suspend the provision of the Services in relation to the Equipment (including by disconnecting the power supply to the Equipment, or by disconnecting the Equipment from the Supplier Network) for so long as is necessary to determine whether the Equipment (or use thereof) is the cause of any such problem; and/or
- 7.2.4** remove the Equipment (or any part of it) from the Supplier network.

- 7.3** In any situation where the Supplier is entitled to terminate these Conditions pursuant to Clause 13, the Supplier may choose to exercise its right to suspend or terminate all or part of the Services, instead of terminating these Conditions, although the choice by the Supplier of such option does not affect its right to later terminate these Conditions.
- 7.4** The Customer will meet any reasonable cost or expense incurred by the Supplier arising from a breach by the Customer of any of its obligations under Clause 6 or this Clause 7.

8 Rights of the Supplier

- 8.1** The Customer acknowledges and agrees that where any Customer Equipment or other property provided by the Customer is located within the Co-location facility, the Supplier and / or any relevant third parties will have a right of lien over any such item, and accordingly the Supplier will be entitled in exercising that lien, to retain possession of any such item or withdraw from service any applicable aspect of the Services until payment in full by the Customer of all amounts properly due and payable by the Customer to the Supplier under the Contract has been made, together with any interest which may have accrued as a result of such delay in payment or any breach of the Contract by the Customer has been rectified. The Supplier will be entitled in exercising its lien to retain possession of all Customer Equipment and property which is subject to the lien on termination of the Contract or on default by the Customer under these Conditions. The Supplier shall not be responsible for any loss of data due to repurposing of the Customer Equipment under such circumstances.
- 8.2** Where the use of the Services and / or any Equipment is the cause (in whole or in part), or the Supplier has reasonable grounds to believe that it is the cause, of any problem affecting the Supplier Network, the Services, or any other services being provided by the Supplier to a third party, the Supplier may suspend the provision of Services in relation to the affected part (including by disconnecting the Customer from the Supplier Network) for so long as is necessary to determine whether the Customer's use of the Services and / or Equipment is the cause of any such problem, and/or disconnect or partially block (by means of a firewall or equivalent technology) the Services, where appropriate, until such time as the Customer may provide evidence to the Supplier that the problem will no longer be in effect.



8.3 All Internet Protocol addresses assigned to the Customer by the Supplier via RIPE NCC and any carriers remain the property of the Supplier.

8.4 The Supplier shall be entitled to require relocation of the Equipment within the Premises on thirty (30) days' written notice to the Customer. The Supplier shall use its reasonable endeavours to ensure that the disruption caused to the Customer's business is kept to a minimum.

9 Intellectual property rights

9.1 As between the Customer and the Supplier, all Intellectual Property Rights in relation to the Services shall be owned by the Supplier. The Supplier licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to such extent as is necessary to enable the Customer to make reasonable use of the Services. If the Contract terminates, this licence shall automatically terminate.

9.2 To the extent that any IPR is created in any the course or providing the Services to the Customer then the Customer agrees that any such developments are the property of and shall fully vest in the Supplier and to the extent that any such IPR is created by or for the Customer, the Customer hereby assigns to the Supplier absolutely (where appropriate by way of present assignment of future copyright), all right, title and interest in and to any such IPR in any developments.

9.3 If asked to do so by the Customer, the Supplier will, at the Customer's expense, promptly sign such documents and do such other things as the Customer requires it to sign or do to perfect its title to, or otherwise to enjoy the benefit of, the Intellectual Property Rights assigned to it in terms of Clause 9.2, including by registering any of those Intellectual Property Rights in any part of the world.

9.4 The Customer warrants, represents and undertakes that:

9.4.1 as a result of the assignment in Clause 9.2, the Supplier will acquire a valid, good and unencumbered title to the Intellectual Property Rights which are the subject of that assignment;

9.4.2 it will not infringe the Intellectual Property Rights of any third party in the performance of the Services; and

9.4.3 the possession and/or use of the Customer Equipment by the Supplier, or any licensee of the Supplier, will not infringe the Intellectual Property Rights of any third party.



9.5 The Customer will indemnify the Supplier against all losses, costs, claims, demands, expenses and liabilities of any nature (including legal costs), arising from or relating to any claim arising from a breach or alleged breach by the Supplier of Clause 9.4.

10 Confidentiality

10.1 The Customer and the Supplier will each treat as confidential all Confidential Information obtained from each other under or in connection with the Contract. For the avoidance of doubt the party disclosing such confidential information shall be the "**Discloser**" and the other party shall be the "**Recipient**".

10.2 The Recipient shall not without the prior written consent of the Discloser disclose any such Confidential Information to any person, or use the same, except as permitted by Clause 10.3.

10.3 The Recipient may disclose Confidential Information obtained from the Discloser under these Conditions to the following persons:

10.3.1 the Recipient's own employees, agents and contractors, to the extent that such persons need to know it for the purposes of these Conditions, and provided that they are first made aware of the confidential nature of the Confidential Information and the Recipient's obligations in relation to it, and themselves agree to treat the Confidential Information confidentially on terms no less onerous than those contained herein;

10.3.2 the Recipient's auditors and other professional advisers; and

10.3.3 any person having a statutory, regulatory or other legal right (except a contractual right) to request and receive that information, including any court of competent jurisdiction.

10.4 Clause 10.1 does not apply to information which the Recipient can show by reference to documentary or other evidence:

10.4.1 was rightfully in its possession prior to its receipt from the Discloser, other than in circumstances where the Recipient received it under an obligation of confidence; or

10.4.2 is already public knowledge or which becomes so at a future date (otherwise than as a result of a breach of this Agreement or other confidentiality obligation owed to the Discloser by the Recipient); or

10.4.3 is received from a third party who is not under an obligation of confidentiality in relation to that information; or

10.4.4 is trivial or obvious



- 10.5** The obligations of confidentiality in this Clause 10 (but not the rights to use Confidential Information) will remain in force following the expiry or other termination of the Contract, without limit in point in time.
- 10.6** The Customer agrees that the Supplier may refer to a relevant description of the Customer's business in any of its marketing material or on its website and the Customer grants the Supplier a royalty-free licence to use any of the Customer's trade names and trademarks solely in connection with such marketing.
- 10.7** Notwithstanding Clause the foregoing provisions of this Clause 10, where the Supplier is the Recipient of Confidential Information, the Customer acknowledges that there are circumstances in which such Confidential Information (including Personal Data) may need to be disclosed to third parties as follows:
- 10.7.1** the Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Supplier in connection with the Services;
 - 10.7.2** the Customer acknowledges and agrees that details of the Customer's name, address and assigned IP Addresses may be released to law enforcement agencies upon production of valid notices and/or to third parties upon service of a valid disclosure notice issued by a court of competent jurisdiction;
 - 10.7.3** the Customer acknowledges and agrees that details of the Customer's name, address, telephone and fax numbers together with email address(es) and assigned IP Addresses may be released to the RIPE NCC to ensure that both Supplier and Customer fulfil their obligations under prevailing RIPE policies and that such data may be published in whole or in part in the RIPE WHOIS database.

11 Limitation of liability

- 11.1** This Clause sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- 11.1.1** any breach of the Contract;
 - 11.1.2** any use made by the Customer of the Services and/or Equipment, or any part of them;
 - 11.1.3** any representation, statement (including misrepresentations or misstatements, unless fraudulent) or tortuous act or omission (including negligence) arising prior to, by reason of or under or in connection with the Contract; and
- 11.2** Nothing in these Clauses limits or excludes the liability of the Supplier:



- 11.2.1** for death or personal injury resulting from negligence; or
- 11.2.2** for any damage or liability incurred by the Customer as a result of fraud or fraudulent misrepresentation by the Supplier; or
- 11.2.3** any other liability which cannot be excluded or limited by applicable law.

11.3 Subject to Clause 11.2, the Supplier shall not be liable for:

- 11.3.1** loss of profits; or
- 11.3.2** loss of business; or
- 11.3.3** depletion of goodwill and/or similar losses; or
- 11.3.4** loss of anticipated savings; or
- 11.3.5** loss of goods; or
- 11.3.6** loss of contract; or loss of or corruption of data or information; or
- 11.3.7** any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

11.4 Subject to the provisions of Part 3 (Service Levels), the Supplier does not warrant, guarantee or undertake on behalf of any third party supplier that any internet access will be uninterrupted or error free or of any particular level of availability or quality of internet access, and shall not under any circumstances be liable for any interruptions or downtime of any server.

11.5 The Supplier accepts no liability for, and the Customer will hold harmless and indemnify the Supplier in the event that the Supplier's staff (in good faith) act, or fail to act, in accordance with a telephone instruction given using a valid telephone verification password which was issued by Customer to Supplier pursuant to Clause 6.1.11 or an email or other instruction sent or given by a person authorised.

11.6 The Customer is solely responsible for all paperwork and documentation in respect of, and payment of, customs duties, imports, levies, taxes or charges in respect of deliveries it may arrange to be made to the Premises and the Customer acknowledges that the Supplier will not arrange, and is not responsible for arranging, such deliveries or such payments. The Supplier takes no responsibility and accepts no liability whatsoever for its failure to act upon paperwork sent to it in respect of such deliveries or payments.

11.7 The Customer acknowledges and agrees that the allocation of risk in this Clause 11 is fair and reasonable having regard to all the circumstances and in particular:

- 11.7.1** to the price to be paid by the Customer for the Services;
- 11.7.2** to the fact that the Supplier has no control over how and for what purpose the Equipment is used by the Customer; and



11.7.3 since the Customer is or should be able to rely upon its own insurances to bear or recover any losses that it incurs.

11.8 In entering into the Contract the Customer acknowledges and confirms that it has had reasonable opportunity to take independent legal advice regarding the limitations of liability contained herein and that the Customer has had the opportunity to discuss such limitations with the Supplier and amend them where possible. Customer acknowledges and confirms that, in entering into this Contract, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in this Contract.

11.9 No claim shall be made by the Customer in respect of any breach of this Agreement after the expiry of a period of thirty (30) days from the Commencement Date.

12 Duration

12.1 The Contract shall come into force on the Commencement Date and shall continue in force unless or until terminated by either party in accordance with the provisions of Clauses 4.2, 12.2, 12.4, 13 or 15.4.

12.2 Save where agreed otherwise in the Order Form, the Contract can be terminated for convenience by a party ("**the terminating party**") on, or after, the expiry of the relevant Minimum Period for the Contract by the terminating party giving notice to the other party as follows:

12.2.1 in relation any Co-Location Services:

12.2.1.1 At least one (1) months' notice of termination in the case of per-Unit co-location, and;

12.2.1.2 At least one (1) months' notice of termination in the case of Floor Space, RSU"s, or private rack systems (half and quarter sized);

12.2.2 in relation to any other Service not described within Clauses 12.2.1.1 and 12.2.1.2 (inclusive) above at least one (1) months" notice of termination.

12.3 Any notice of termination under this Clause 12.2 must refer to this Clause 12.2 and must specify the Contract that is being terminated using the Supplier Contract reference set out in the relevant Order Form.

12.4 The Contract may be terminated by mutual consent documented in a written agreement signed by both of the parties



12.5 In the event that the Customer wishes to terminate the Services prior to the expiry of the relevant Minimum Period, the Customer may do so on notice in writing to the Supplier, but only upon first making payment in full of all sums which would have been payable to the Supplier had the Contract run (and had the Services been provided) until the expiry of the Minimum Period.

13 Termination

13.1 The Supplier shall be entitled to terminate the Contract forthwith in the event that:

13.1.1 the Customer fails to pay any amount due under the Contract on the due date for payment and remains in default not less than fourteen (14) days after being notified in writing to make such payment; or

13.1.2 the Customer commits a material breach of any of the terms of the Contract and (if such a breach is remediable) fails to remedy that breach within fourteen (14) days of the Customer being notified in writing of the breach; or

13.1.3 the Customer repeatedly breaches any of the terms of the Contract in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of the Contract; or

13.1.4 the Supplier has terminated, or is entitled to terminate, any other contract that it has entered into with the Customer on any grounds which are the same as, or are analogous to, those set out in this Clauses 13.1.

13.2 Either party shall be entitled to terminate the Contract on notice in writing to the other party if the other:

13.2.1 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being a natural person) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply; or

13.2.2 the other party commences negotiations with all or any class of its credit ors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or

13.2.3 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or on connection with the winding up of that other party other than for the sole purpose of a



- scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party; or
- 13.2.4** an application is made to court, or an order is made, for the appointment of an administrator or if a of intention to appoint an administrator is given or if an administrator is appointed over the other party; or
 - 13.2.5** a floating charge holder over the assets of that other party has become entitled to appoint or has appointed an administrative receiver; or
 - 13.2.6** a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party; or
 - 13.2.7** a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days; or
 - 13.2.8** any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in this Clause 13.2 (inclusive); or
 - 13.2.9** the other party suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of its business; or,
 - 13.2.10** the other party makes, threatens, whether orally or in writing (whether in hard copy, by any electronic medium or otherwise), to adversely affect the ongoing operations of the other party's business or that of any of its affiliates (provided that this Clause shall not apply to any action taken by the Supplier in accordance with this Agreement or at any time that the Customer has not paid the Charges by the due date).
- 13.3** Without prejudice to any other rights or remedies which the Supplier may have, the Supplier may terminate the Contract without liability to the Customer:
- 13.3.1** on one (1) months' written notice to the Customer if there is a change of control of the Customer (as defined in Section 574 of the Capital Allowances Act 2001); and immediately;
 - 13.3.2** if the Customer or any of its employees or agents engages in any conduct that is prejudicial to the Supplier and fails to remedy such action within seven (7) days of such being notified to the Customer;
 - 13.3.3** the Customer fails to comply with Clauses 6.1 and/or any other obligations of the Customer set out in Sections B and fails to remedy such action or breach within seven (7) days of such being notified to the Customer; or
 - 13.3.4** the Customer commits any material breach of the AUP or any international, EU or UK legislation regulating the use of the internet, and for the avoidance of doubt the Supplier shall have no liability to the Customer for any act or omission that it carries out or omits in compliance with any such legislation; or



- 13.3.5** if the Customer fails to maintain throughout the term of this contract an operational direct debit mandate on a UK bank account within the BACS clearing system that can be collected from for the purposes of Clause 5.2.3; or
- 13.3.6** if the Customer has, within a continuous period of six (6) months, failed to pay the Charges in cleared funds on the due date on more than two occasions.

14 Effect of Expiry or Termination

- 14.1** The expiry or termination of the Contract shall be without prejudice to any other rights or remedies a party may be entitled to 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 continue in force on or after such termination.
- 14.2** Promptly upon termination or expiry of the Contract and following removal by the Supplier to a suitable collection point, and where appropriate, the Customer shall at its own cost remove the Customer Equipment from the Co-location Facility. Such removal shall take place at a time to be agreed with the Supplier (subject to any lien which the Supplier may have over the Customer Equipment pursuant to Clause 8.1). Should the Customer fail to remove the Customer Equipment from the Co-location Facility within a period of thirty (30) calendar days from the date of expiry or termination or agreed time of removal, the Supplier shall be entitled to remove all data stored on the Customer Equipment, disconnect, remove and sell the Customer Equipment, and account to the Customer for the proceeds of sale less any sums owing to the Supplier pursuant to this Contract. the Supplier is not responsible for any loss incurred due wholly or in part to the invocation of this Clause.
- 14.3** Within one (1) Business Day of termination of this Agreement the Supplier will remove all data stored on all other Equipment (not being Customer Equipment), and will disconnect and remove it from service. The Customer is obliged to have ensured any and all data is recovered or removed from such Equipment prior to the termination of this Agreement, and the Supplier is not responsible for any loss incurred due wholly or in part to the Customer failing to do this before termination of this Agreement.
- 14.4** In any situation where the Supplier is entitled to terminate the Contract, the Supplier may choose to exercise its right to suspend or terminate the Services, instead of terminating the Contract, although the choice by the Supplier of such option does not affect its right to later terminate the Contract pursuant to this Clause 13.

15 Force majeure



- 15.1** The Supplier shall not be liable for any breach of its obligations hereunder resulting from an Event of Force Majeure
- 15.2** Without prejudice to Clause 15.1, the Customer acknowledges and agrees that the Supplier does not and cannot control the flow of data to or from its networks or the storage of data held outside its networks. Such flow and/or storage depend in large part on the performance of internet services and/or telecommunications networks provided or controlled by third parties. At times, actions or inactions of such third parties can impair or disrupt the Supplier's connections to the internet (or portions thereof) or such other platforms upon which access to the Services may be provided. Although the Supplier will use reasonable efforts to take all actions reasonably necessary to remedy and avoid such events, the Supplier cannot guarantee that such events will not occur. Accordingly, save as provided expressly in this Contract, the Supplier gives no warranty in relation to such events and any occurrence of such will be classed as an Event of Force Majeure.
- 15.3** The Supplier will give notice forthwith to the Customer upon becoming aware of an Event of Force Majeure, such notice to contain details of the circumstances giving rise to the Event of Force Majeure.
- 15.4** If a default due to an Event of Force Majeure shall continue for more than four (4) weeks, then either party will be entitled to terminate the Contract. Neither party shall have any liability to the other in respect of the termination of these Conditions as a result of an Event of Force Majeure.
- 16 Data protection**
- 16.1** Each party undertakes to the other that it will take all necessary steps to ensure that it operates at all times in accordance with the DPA and General Data Protection Regulation ("GDPR") on the basis that the Customer is the Data Controller and (where the Supplier processes Personal Data but not otherwise) the Supplier is the Data Processor in relation to Personal Data.
- 16.2** Without limiting Clause 16.1, if either party (the "Data Provider") passes to the other party (the "Data Recipient"), or otherwise gives the Data Recipient access to, Personal Data under these Conditions:
- 16.2.1** the Data Recipient will not Process Personal Data held under the Contract except in accordance with these Conditions or otherwise on the instructions of the Data Provider;
 - 16.2.2** the Data Recipient will implement appropriate technical and organisational measures against unauthorised or unlawful Processing of Personal Data and against accidental



loss or destruction of or damage to Personal Data in compliance with the DPA and GDPR;

16.2.3 The Data Recipient will only Process such Personal Data in accordance with the data protection principles set out in the DPA and GDPR; and

16.2.4 The Data Recipient will comply promptly and in full with any request made by the Data Provider further to the Data Provider's statutory obligations pursuant to the DPA and GDPR

16.2.5 the Data Provider represents, warrants and undertakes that it has all necessary consents and permissions in relation to the Personal Data concerned; and

16.2.6 Where the Supplier is the Data Recipient, the Data Recipient will not transfer any of the Personal Data concerned outside the UK and/or the EEA without the prior written consent of the Customer (as Data Provider).

16.3 For the purposes of this Clause 16, "Data Collector", "Data Processor" and "Personal Data" and "Process" bear the meanings given to them within the DPA and GDPR.

17 Notices and communications

17.1 Where any notice or other communication is to be given under the Contract, it must be in writing. Notices or communications may be:

17.1.1 left at or sent by post, by fax or by e-mail to the address of the party as set out in the Order Form or any other address (including fax number or e-mail address) notified by that party to the other in writing in accordance with this Clause as an address to which notices, invoices and any other documents may be sent.

17.1.2 deemed to have been given to the other party (if by post) two (2) Business Days from the date of posting (and in proving such service or delivery, it shall be sufficient to prove that such communication was properly addressed, stamped and posted) and (if by fax) at the time of transmission provided the sender has retained a facsimile transmission sheet showing that the fax was properly transmitted, and in the case of e-mail, at the expiration of twenty four (24) hours after the time it was sent and in proving an e-mail was properly sent an electronic delivery receipt in respect of that e-mail showing that the e-mail was properly sent shall be sufficient.

17.2 It is the Customer's responsibility to ensure that any amendments to the details of the Customer Nominated Contact, together with those of any 24x7 contact, are promptly communicated to the Supplier. The Customer acknowledges and accepts that the Supplier is not responsible or liable for any shortfalls in the Services which arise through the Supplier's inability to contact the Customer Nominated Contact, or 24x7 contact where applicable, where such contact details have been amended but not communicated to the Supplier.



17.3 Notwithstanding the foregoing provisions, where the Customer is located outside the United Kingdom, it shall identify and irrevocably appoint a person located in the United Kingdom to act on its behalf as its agent for service of any proceedings and notices arising out of or in connection with this Contract and advise the Supplier of such agent's name, address and fax number for such person. Any such service shall be deemed completed on delivery to such agent (whether or not it is forwarded to and received by the Customer). If for any reason such agent ceases to be able to act as agent or no longer has an address in the United Kingdom, the Customer shall forthwith appoint a substitute acceptable to the Supplier and deliver to the Supplier details of the new agent's name, address, phone number and email address.

17.4 The Customer irrevocably consents to any process in any legal action or proceedings arising out of or in connection with the Contract being served on it in accordance with the provisions of this Contract relating to service of notices. Nothing contained in this Contract shall affect the right to serve process in any other manner permitted by law.

18 Assignment

18.1 The Customer shall not be entitled to assign the Contract or all or any of its rights and obligations thereunder without the prior written consent of the Supplier, such consent not to be unreasonably withheld or delayed.

18.2 The Supplier shall be entitled to assign the Contract or all or any of its rights and obligations under the Contract to any person without the prior written consent of the Customer.

19 Severability

19.1 If any provision of the Contract shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of the Contract and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect.

19.2 If any provision of this Agreement is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid.

19.3 The parties further agree, that in the circumstances referred to in Clause 20.1 and if Clause 20.2 does not apply, to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the invalid or unenforceable provision. The obligations of the parties under any invalid or unenforceable provision of this Agreement shall be suspended whilst an attempt at such substitution is made.



20 Entire Agreement

- 20.1** These Conditions together with the Order Form and any documents explicitly referenced therein constitutes the entire agreement between the parties in relation to the subject matter of the Contract and supersedes and extinguishes all previous drafts, agreements, arrangements and understandings between them, whether written or oral, relating to its subject matter.
- 20.2** Each party acknowledges that in entering into this Contract it does not rely on, and shall have no remedies in respect of, any representation or warranty (whether made innocently or negligently) that is not set out in this Contract.
- 20.3** No party shall have any claim for innocent or negligent misrepresentation based upon any statement in this Contract.
- 20.4** Nothing in this Clause 21 shall limit or exclude any liability for fraud

21 General

- 21.1** The waiver by either party of a breach or default of any of the provisions of the Contract shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.
- 21.2** Except where permitted in terms of Clause 4, additions or changes to the Contract will only be binding upon the parties where they are written and signed by a duly authorised representative of each party.
- 21.3** The parties agree that any termination or expiry of the Contract will not affect any provision of the Contract which is expressly or by implication intended to come into or continue in force on or after such termination or expiry. Without limiting the terms of this Clause, such provisions shall include Clauses 9 and 10.
- 21.4** Nothing in the Contract shall create or be deemed to create a joint venture or partnership or the relationship of employer and employee between the parties.



21.5 The governing law for the Contract shall be determined as follows:

21.5.1 Where the Customer is a United Kingdom registered company and / or has its principal place of business in the United Kingdom, the Contract shall in all respects be governed by and construed in accordance with the Laws of the United Kingdom and the parties hereto irrevocably submit to the non-exclusive jurisdiction of the United Kingdom Courts.

Part 2 – Products – Co-Location Rental Services Terms and Conditions

In addition to the general terms set out within Part 1 to these Conditions, the following specific provisions shall apply to the Co-location Services.

22 Right to use Licensed Space

22.1 The Supplier grants to the Customer the right for so long as the Contract remains in force to:

22.1.1 Locate the Customer Equipment in the Licensed Space, and for these purposes to install such Customer Equipment under the Supplier's supervision, or to have it installed by the Supplier subject to payment by the Customer of the Supplier's charges for installation services calculated at its standard hourly rates as set out in the Order Form or as communicated by the Supplier to the Customer from time to time;

22.1.2 have access to the Customer Equipment in the Licensed Space in accordance with these Conditions together with the security and access policies and procedures at the Co-location Facility, the operating environment within which the Customer Equipment must function and the minimum standards of repair and maintenance that the Customer Equipment must be kept in, and subject to the following:

22.1.3 if the Customer has Licensed Space of one (1) or more Full, Half or Quarter Rack systems, unrestricted, unescorted access is provided on a 24x7x365 basis;

22.2 Following installation of the Customer Equipment in accordance with Clause 23.1.1, the Supplier will connect the Customer Equipment to the internet, via the Supplier Network, unless otherwise requested not to. To be clear, the Customer agrees that it is not permitted to make such connection.

22.3 The Supplier will utilise one (1) Unit of any Licensed Space (for Full Rack and Half Rack Customers) for the provision of a single Cat6 patch panel. Internal cabinet space (in the vertical axis) will also be used for provision of Power Distribution Unit bars to supply power for the Full Rack or Half Rack.



- 22.4** Licensed Space taken on a Floor Space basis does not include power supply, which will be provided by the Supplier on the basis set out in the Order Form or on terms otherwise agreed by the parties in writing.
- 22.5** Unless the Supplier and the Customer have agreed different requirements in the Order Form, full RSU's are provided with twin 32A fused power supplies and up to 28A total sustained power utilisation (power allowance) as standard on Power Distribution Unit bars with C14-C13 and C14-C19 output sockets. Half racks with twin 16A fused supplies (with 12A total sustained usage). Additional power required beyond the Power Allowance referred to in the Order Form may be provided by the Supplier subject to separate quotation and agreement by the parties.
- 22.6** For Licensed Space taken on a per-Unit basis, Customer Equipment may only be fitted to the front mounting rails of the relevant rack system provided, and power is provided on the basis that the Customer Equipment power supplies are rated to no more than 1400W (single or twin PSU) per Unit of space taken.
- 22.7** For Licensed Space taken in Half and Full Rack Cabinets, the Supplier cannot take responsibility for the safety and stability of power and networking cables where the Customer chooses to have the Customer Equipment fitted to the rear mounting rails of any rack system provided.

23 Customer Equipment

The Customer will work with the Supplier to ensure that adequate ventilation space is provided within the Licensed Space for dissipation of heat generated by the Customer Equipment in accordance with Good Industry Practice.

24 The Supplier's obligations in respect of the licensed space

24.1 The Supplier will provide the Customer with the following:

- 24.1.1** dual power, protected by a redundant UPS battery system and an on-site diesel generator;
- 24.1.2** IP transit (bandwidth) provided either on a Flexible basis, capped and billed at the agreed contracted (committed) rate per Mb (Megabits) per second, or on a Burstable basis, where bandwidth is charged in GB (Gigabytes) transferred per calendar month all as set out in the Order Form. This Burstable bandwidth will be billed at the agreed pro-rata value for the additional usage. The Customer will have access to usage graphs via a web interface and may monitor usage throughout the term of the Contract. The Supplier shall be entitled to charge the Customer on a Burstable basis for additional bandwidth supplied to the Customer at its request beyond that contracted on a Flexible basis, where this additional bandwidth was not agreed with the Supplier



beforehand. The Customer may also request the Supplier at any time to cap the bandwidth usage to an agreed rate. Other network services may also be provided as required by the Customer under separate terms, including but not exclusively X25, X21/G703 leased lines, MetroEthernet and Voice Services over IP services;

- 24.1.3** such additional services as the parties agree in writing that the Supplier will provide from time to time; and
- 24.1.4** The Supplier will monitor the IP network interface that supplies Internet access to the Customers Rack and Equipment inside the Customers Rack using “IDS” supplied and managed by the Supplier. The Customer can opt out of this free service by specifying on the Order Form;
- 24.2** The Supplier will use reasonable endeavours to provide the Customer with an appropriate physical environment for the Customer Equipment including air conditioning and automated fire suppression;
- 24.3** The Supplier will use best endeavours to provide the Customer with a 24x7x365 secure environment with a partially manned site, perimeter security fence, 24x7x365 CCTV, proximity fob access control system, Inergen fire suppression system (technical details and choice of fire suppression materials will vary according to the Customer choice of datacentre).
- 24.4** The Supplier will use reasonable endeavours to deliver these Co-location Services within two (2) Business Days of receipt of a signed copy of the Contract and payment of the relevant pro-forma invoices in accordance with Clause 3.
- 24.5** Without prejudice to Clause 4, the Customer acknowledges and agrees that whilst the Customer will have the exclusive right, as applicable to the Services they are receiving, to locate the Customer Equipment in the Licensed Space in the Co-location Facility and / or to use the Connection for so long as the Contract is in force, the Supplier is entitled to use all other parts of the Co-location Facility as it sees fit, and in particular to install or permit the installation there of Equipment which is owned or used by the Supplier or by any third party, provided always that this does not interfere with, or adversely affect, the Customer's use of the Customer Equipment or its ability to access same.
- 25** The Supplier shall allow representatives of the Customer access to the Co-Location Facility at any time in accordance with the AUP save that the Supplier may refuse access to the data centre in the case of co-location services in the event of emergency or if it has given the Customer prior notice that such access is denied.
- 26** The Customer warrants, represents and undertakes that it will:
 - 26.1** abide by the AUP at all times;



- 26.2** not use any part of the Co-location Facilities for any purpose other than for the location of the Equipment;
- 26.3** keep the Rack(s) and/or the Cage and all fixtures and fittings therein in good condition and on expiry or termination of the Contract return it to the Supplier in its original condition, fair wear and tear excepted;
- 26.4** not exceed the specified maximum limit of electrical power usage to each the Supplier Rack as specified in Schedule 1 nor allow or do anything which would cause an interruption in power at the Co-Location Facility or to the Services;
- 26.5** it will ensure that the operation or condition of the Customer Equipment will comply with any reasonable written requirements of the Supplier from time to time so that the Customer Equipment does not adversely affect any other Equipment located at the Co-location Facility or the use of the Co-location Facility by the Supplier or any third party.
- 26.6** it will ensure that the operation of the Dedicated Server and Network Equipment will comply with any reasonable written requirements of the Supplier so that same do not adversely affect any other equipment located at the Co-location Facility or the use of the Co-location Facility, and the Supplier Network by the Supplier or any third party;
- 26.7** not do anything that may:
- 26.7.1** compromise the security of the Co-Location Facility;
 - 26.7.2** be dangerous or cause any nuisance, inconvenience or other disturbance to others (including others Customers of the Supplier) at the Co-Location Facility; or
 - 26.7.3** place the Supplier in breach of any covenants relating to the Co-Location Facility or insurance Clauses as notified to it by the Supplier from time to time;
- 26.8** it has all rights and consents necessary to allow it to:
- 26.8.1** locate the Customer Equipment in the Licensed Space;
 - 26.8.2** locate the Equipment in the Customer Premises;
 - 26.8.3** have the Connection installed at the Customer Premises;
 - 26.8.4** use the Dedicated Server and Network Equipment in the Co-location Facility.

Part 3 – Products – Dedicated Hosting - Server & Storage Rental Terms & Conditions

In addition to the general terms set out within Part 1 to these Conditions, the following specific provisions shall apply to the Dedicated Hosting Server & Storage Rental Services



27 Right to use Dedicated Server, Storage, Backup and Network Equipment

27.1 The Supplier grants to the Customer the right for so long as the Contract remains in force to:

27.1.1 use the Dedicated Server and/or Storage Equipment and/or Backup Equipment and /or Network Equipment for web-hosting, internet-related, or hosted application purposes;

27.1.2 have escorted access in accordance with the terms of these Conditions and the security and access policies and procedures at the Co-location Facility, the operating environment within which the Dedicated Server and Network Equipment must function and the minimum standards of repair and maintenance that the Dedicated Server and Network Equipment will be kept in; and

27.1.3 run suitable applications on the Dedicated Server using the Supported Software (after it has been installed and configured by the Supplier in the case of the SysAdmin Support option, or installed by the Customer in the case of Software Support, subject to payment by the Customer of the Supplier's charges for installation services calculated at its rates thereafter as agreed with the Customer).

27.2 During Business Hours, the Customer may have up to two (2) hours escorted access in any given calendar month free of supervision charges. Escorted access outside Business Hours, or in excess of two (2) hours, will be charged by the Supplier at its standard hourly rates, as set out in the Order Form.

27.3 Installation of the Dedicated Server and/or Storage Equipment and/or Backup Equipment and/or Network Equipment shall be carried out by the Supplier at the rates of charge set out in the Order Form. Following installation of the Dedicated Server and Network Equipment in accordance with Clause 27.1.1, the Supplier will connect the Dedicated Server and Network Equipment to the internet, via the Supplier Network unless otherwise requested not to. To be clear, the Customer agrees that it is not permitted to make such connection.

27.4 Single or dual unmetered power supplies (as appropriate for the Dedicated Server, Storage, Backup or Network Equipment) are provided for the Dedicated Server, Storage, Backup and/or Network Equipment via IP-based power distribution units ("PDUs") to allow remote power cycling. If the Dedicated Server or Network Equipment uses dual supply, these will be provided from diverse UPS battery systems and PDUs.

27.5 The following provisions also apply to the Dedicated Hosting Services:

27.5.1 Where the Software Support option is selected on the Order Form, the Customer will have full administrative access and privileges, and access to the Server via HTTPS for ILO/iDRAC or any other hardware vendor management interface, SSH and MS-RDP (if requested in the case of any Microsoft Windows Operating System);



- 27.5.2** where the SysAdmin Support option is selected on the Order Form, the Customer will have user-level access to the server via HTTPS for ILO/iDRAC or any other hardware vendor management interface, SSH and MS-RDP (if requested in the case of any Microsoft Windows Operating System);
- 27.6** Customer applications or Daemons not specified by the Supplier may be run in the normal user space and use high TCP/UDP port numbers. For the avoidance of doubt, such applications or Daemons shall not be supported by the Supplier unless otherwise explicitly stated. The Supplier reserves the right to apply process limits to protect the stability of the server where appropriate.
- 28** The Supplier's obligations in respect of the Dedicated Server, Storage, Backup and/or Network Equipment:
- 28.1** The Supplier will provide the Customer with the following:
- 28.1.1** the Dedicated Server, Storage, Backup and Network Equipment, which will be maintained in good working order for so long as it is located in the Co-location Facility in accordance with these Conditions and Good Industry Practice;
 - 28.1.2** single or dual power, protected by in-line UPS battery systems and on-site generator, as appropriate to the power supply needs of the Dedicated Server, Storage, Backup and Network Equipment;
 - 28.1.3** IP transit (bandwidth) is provided either on a Burstable basis, where bandwidth is charged in GB (Gigabytes) transferred per calendar month, or a Flexible basis by which the Customer requests and is provided bandwidth on the basis of maximum sustained data-rate in Mb/s. Burstable bandwidth will be billed at the agreed pro-rata value for the additional usage. The Customer will have access to usage graphs via a web interface and may monitor usage throughout the term of these Conditions. The Supplier shall be entitled to charge the Customer on a Burstable basis for additional bandwidth supplied to the Customer at its request beyond that contracted on a Flexible basis, where this additional bandwidth was not agreed with the Supplier beforehand. Burstable bandwidth is rate limited to 2Mb/s by default to protect Customers against DDoS, unexpected traffic levels and to mitigate against unplanned costs. The Customer may request the Supplier at any time to remove or alter this bandwidth cap to an agreed rate up to 100Mb/s at any time. This Clause is to be read in accordance with the bandwidth pricing detailed within the Order Form. Provision of 10Gb/s connectivity will be subject to an additional port charge, which shall be at the Supplier's prevailing rate from time to time, or otherwise agreed in the Order Form;
- 28.2** In the event of loss of an operable operating system as a result of hardware failure (e.g. catastrophic hard disk failure), the Supplier will resolve the hardware issue, in the same manner as a newly provisioned server. Unless the Customer has selected a Support Service that provides



backup management, the Customer will be responsible for restoration of all relevant configuration and data;

- 28.3** The Supplier will monitor the IP network interface to the Dedicated Server and / or Network Equipment if the Supplier is provided with suitable access through firewalls or other devices. The Service Levels, where appropriate, for IP transit or other network services may only be upheld in the event that suitable monitoring is possible. By firewalling the Supplier monitoring tools, the Customer is explicitly relinquishing the rights to the relevant Service Levels.
- 28.4** The Supplier will use reasonable endeavours to provide the Customer with an appropriate physical environment for the Customer Equipment including air conditioning.
- 28.5** The Supplier will use best endeavours to provide the Customer with a 24x7x365 secure environment with a fully manned site, CCTV, proximity fob access control system, Inergen fire suppression system (technical details and choice of fire suppression materials will vary according to the Customer choice of datacentre).
- 28.6** Unless otherwise agreed, the Supplier will endeavour to deliver the Dedicated Hosting Services within two (3) Business Days, of receipt of a signed copy of the Contract, and payment on any pro-forma invoice raised in accordance with Clause 5.
- 28.7** The Supplier reserves the right to charge administrative fees for additional configuration requests beyond the above volumes per month.
- 28.8** The Supplier will make configuration changes to the dedicated server hardware settings and supported services within one (1) Business Day of receiving a written request from the Customer's Nominated Contact. Such requests will be actioned during normal Business Hours. Configuration changes may be made outside these hours, on request by the Customer and will be charged at the Supplier's prevailing rates as set out in the Order Form, or as communicated by the Supplier to the Customer from time to time.
- 28.9** The Supplier will monitor relevant dedicated server and storage array hardware on a 24x7x365 basis to ensure the hardware is operational. The Supplier will monitor the hardware for warning and critical events only.
- 28.10** The Supplier will monitor the server or storage array's physical hardware: ILO event log, IML Log, Active Health System and iDRAC event log via SNMP using PSTG, email alerts, or equivalent monitoring tools.
- 28.11** Should any managed dedicated server or storage array have a hardware failure specified in Clauses 28.9 and 28.10, the Supplier will take immediate action to diagnose and rectify the fault. If



the fault is caused by any other hardware than those specifically managed by the Supplier, the Customer's Nominated Contact will be contacted during Business Hours. Outside Business Hours, the Supplier will contact the Customer's nominated 24x7 contact, where such contact has been communicated to the Supplier.

- 28.12** Where the Managed Firewall option is selected on the Order Form, all inbound and outbound traffic on the firewall will be completely blocked by default. Customers must specify rules on the Order Form for the service, including inbound/outbound IP address/subnet and port that they require opening. The Customer will request in writing any changes to the configuration needed to be made by the Supplier. This policy ensures that there is always a written record of the Customer requesting firewall rules opened. The hosted firewall includes setup of Stateful Inspection Firewalling.
- 28.13** Any additional support or configuration services not provided as part of the Contract may be provided by the Supplier to the Customer at the prevailing pricing rates set out in the Order Form, or as communicated by the Supplier to the Customer from time to time.

29 Obligations in respect of RIPE IP Addresses

If the Customer obtains a RIPE IP Address via the Supplier as the sponsoring then the following provisions apply:

- 29.1** the Supplier hereby acknowledges that it is solely responsible for liaising with the Customer to keep registration records up-to-date;
- 29.2** the Supplier hereby acknowledges its duty to ensure that such registration records are made available to RIPE NCC on a timely basis;
- 29.3** the Customer acknowledges its obligation to provide up-to-date registration data to the Supplier, including timely reporting of any domain changes, and the Customer specifically agrees that some or all of this registration data will be published in RIPE NCC's WHOIS database;
- 29.4** the Customer hereby irrevocably agrees that the provision of a RIPE IP Address is personal to the Customer and that such RIPE IP Address may not be assigned, novated or otherwise transferred to any other party (save that this Clause 29.4 does not act to prevent a transfer back to RIPE NCC in the circumstances set out in the remainder of this Clause 29);
- 29.5** in consideration for the provision of the RIPE IP Address, the Customer agrees to pay to the Supplier the Charges set out in the Order Form (or where no fees are specified in the relevant Order Form then such Charges as are specified generally for the provision of a RIPE IP Address on the Supplier's Website at the relevant time);



- 29.6** the Customer acknowledges its obligations, and irrevocably agrees, to use the RIPE IP Address in accordance with and subject to the policies of RIPE NCC as published on the RIPE NCC's website (as from time to time amended);
- 29.7** the Customer will agree in writing with the Supplier a timeframe over which all of the assigned RIPE IP Addresses will be put into operational use, which shall in any event not exceed 12 months;
- 29.8** the Customer irrevocably agrees that RIPE IP Address will be forfeited and returned by default to RIPE NCC, without compensation or reimbursement, upon the happening of any one or more of the following events:
- 29.8.1** the Customer cannot be contacted;
 - 29.8.2** the Customer fails to make use of the RIPE IP Address in accordance with the pre-agreed business plan and timeframe (when such unused numbers will revert to the RIPE NCC);
 - 29.8.3** the Customer fails to pay on the due date the Charges due to be paid to the Supplier as referred to in Clause 5
 - 29.8.4** the Customer fails to update (on at least a quarterly basis) the registration data to the Supplier;
 - 29.8.5** the Customer fails to use the RIPE IP Address in full conformity with RIPE NCC's published policies, as from time to time in force; or
 - 29.8.6** the Contract is terminated by reason of any of the events in Clauses 4.2, 5.6 or 13.

30 Obligations in respect of Supplier IP Addresses

- 30.1** If the Customer obtains a Supplier IP Address, then the following will apply:
- 30.1.1** the Customer acknowledges that IP Addresses are in increasingly short supply and that it is only proper for the Supplier to monitor and manage how to distribute them;
 - 30.1.2** where a Supplier IP Address is to be provided, the Customer will agree, in writing with the Supplier, a timeframe during which the allocated range of Supplier IP Addresses will be put into operational use, which in any event shall not exceed twelve (12) months;
- 30.2** The Customer irrevocably agrees that a Supplier IP Address will be forfeited and returned by default to the Supplier, without compensation or re-imburement, upon the happening of any one or more of the following events:
- 30.2.1** the Customer cannot be contacted;
 - 30.2.2** the Customer fails to make use of its assigned Supplier IP Address range in accordance with the pre-agreed business plan and timeframe;



- 30.2.3** the Customer fails to pay on the due date the fees due to be paid to the Supplier as set out in the Order Form and Clause 5;
- 30.2.4** the Customer fails to use the range of Supplier IP Addresses in full conformity with Supplier's published policies and terms of service, as from time to time in force;
- 30.2.5** the Contract is terminated by reason of any of the events in Clauses 4.2, 5.6 or 13.

Part 4 – Products – Managed Services – Fully Managed IT Services Including Hardware, Networking, Backup, Software & Security

In addition to the general terms set out within Section A to these Conditions, the following specific provisions shall apply to the Managed Hosted Applications Services.

- 31** Right to use Managed Hosted Applications and Network Equipment
 - 31.1** The Supplier grants to the Customer the right for so long as the Contract remains in force to:
 - 31.1.1** use the Managed Hosted Applications delivered using either Dedicated Hosting Services or a Hypervisor platform for the purposes of running services into their business, Customers, or other related parties have remote administrator and user-level access in accordance with the terms of these Conditions and the Supplier security and access policies and procedures at the specified Co-location Facility, and for use of the operating environment and software upon which the Hypervisor platform at the Supplier, Dedicated Hosting Services, and / or any Network Equipment reside; and
 - 31.1.2** run the Managed Hosted Applications subject to payment by the Customer of the Supplier's charges for installation and support services calculated at its rates as set out in the Order Form or as subsequently agreed with the Customer from time to time. In default of agreement, the Supplier may charge for these services at its then prevailing rates; and
 - 31.1.3** provide hosting CPU, memory and disk resources on a dedicated basis or within the Hypervisor platform to the specification agreed in the Order Form.
 - 31.2** Installation of the Managed Hosted Applications, Dedicated Server and / or any Network Equipment shall be carried out by the Supplier at the rates of charge set out in the Order Form. Following installation of the Managed Hosted Applications, Dedicated Server and / or any Network Equipment in accordance with Clause 31.1.1, the Supplier will connect the Managed Hosted Applications, Dedicated Server and / or any Network Equipment to the internet, via the Supplier Network unless otherwise requested not to. To be clear, the Customer agrees that it is not permitted to make such connection.
 - 31.3** The following provisions also apply to the Managed Hosted Applications, Dedicated Server and / or any Network Equipment:



- 31.3.1** The Customer may have administrative access and privileges, and access to the Hypervisor or Dedicated Server and any hosted applications via HTTPS, SSH, VPN and Windows Remote Desktop (Terminal Services);
- 31.3.2** The exact supported versions of the operating system, code libraries and individual software applications, along with the default configuration parameters will be specified and published by the Supplier from time to time on the Supplier's Website. If the Customer requires alternate versions of the relevant operating system, applications or individual libraries, this may be installed, configured and managed on a bespoke basis at the Supplier's prevailing rates from time to time or as agreed in the Order Form.
- 31.4** Other Customer applications or Daemons may be run in the normal user space using high TCP/UDP port numbers on agreement with the Supplier. For the avoidance of doubt, such applications or Daemons shall not be supported by the Supplier unless otherwise explicitly stated. The Supplier reserves the right to apply process limits to protect the stability of the server where appropriate.
- 32** The Supplier's obligations in respect of the Managed Hosted Applications and/or Network Equipment
- 32.1** The Supplier will provide the Customer with the following:

 - 32.1.1** the Managed Hosted Applications, Dedicated Server and / or any Network Equipment, which will be maintained in good working order for so long as it is located in the specified Co-location Facility in accordance with these Conditions and Good Industry Practice;
 - 32.1.2** connectivity from the Managed Hosted Applications, Dedicated Server and / or any Network Equipment to the global internet, private VLANs in the Co-location Facility, or other relevant WAN connectivity as requested on the Order Form, some of which services may be ordered on a separate Order Form;
- 32.2** In the event of loss of an operable operating system as a result of hardware failure (e.g. catastrophic hard disk failure), the Supplier will resolve the hardware issue and provide a new base operating system install, or restore from backup if this option was selected on the Order Form, in the same manner as a newly provisioned server. In the event of loss of an operable operating system not as a result of hardware failure (e.g. as a result of Customer mis-configuration), the Supplier will provide a new base operating system install, or restore from backup if this options was selected on the Order Form, on a bespoke basis at its then prevailing rates. Configuration, management and support of backup and/or replication services are included subject to the Customer electing to purchase such services alongside the Managed Hosted Applications. Initiation of restoration of data from backup will be performed within 30



minutes of Customer request or agreement (in the event of the Supplier detecting a fault) with restoration of service dependent on the volume of data. Replication will allow for failover from the primary to secondary platform within 30 minutes of Customer request or agreement (in the event of the Supplier detecting a fault), and data will be replicated according to the snapshot interval as agreed with the Customer at time of provisioning if this option has been selected as part of the Order Form.

- 32.3** The Supplier will monitor the IP network interface to the Dedicated Server and / or Network Equipment if the Supplier is provided with suitable access through firewalls or other devices. The Service Levels, where appropriate, for IP transit or other network services may only be upheld in the event that suitable monitoring by the Supplier is possible. By firewalling the Supplier monitoring tools, the Customer is explicitly relinquishing the rights to the relevant Service Levels.
- 32.4** The Supplier will use reasonable endeavours to provide the Customer with an appropriate physical environment for the Managed Hosted Applications, Dedicated Server and / or any Network Equipment including air conditioning and humidity control.
- 32.5** The Supplier will use best endeavours to provide the Customer with a 24x7x365 secure environment with a fully manned site from 8am till 6pm, Monday to Friday, CCTV, proximity card access control system, Inergen fire suppression system (technical details and choice of fire suppression materials will vary according to the Customer choice of Co-location Facility).
- 32.6** Unless otherwise agreed, the Supplier will endeavour to deliver the Managed Hosted Applications, Dedicated Server and / or any Network Equipment within fourteen (14) Business Days (or in the case of services requiring integration into an existing Customer active directory infrastructure via secure VPN), of receipt of a signed copy of the Contract, and payment on any pro-forma invoice raised in accordance with Clause 5.
- 32.7** The Supplier will perform, at the beginning of the Contract, the initial installation of the chosen operating system and Managed Hosted Applications as specified on the Order Form and the following may be provided:
- 32.7.1** a reasonable number of changes to the user accounts on the Managed Hosted Applications, Dedicated Server and / or any Network Equipment (e.g. VPN remote access users);
 - 32.7.2** the configuration and management of relevant backup of the relevant directory file paths or VM's on install and will monitor the verification output thereafter.
- 32.8** The Supplier reserves the right to charge administrative fees for additional configuration requests that are unreasonable in volume or nature.



- 32.9** The Customer acknowledges that the Supplier will only be able to install and support the operating system, Managed Hosted Applications and library code on the Supplier supported hardware platforms, the exact brand and nature of which are available in writing to the Customer on request.
- 32.10** The Supplier will make configuration changes to the operating system and Managed Hosted Applications within one (1) Business Day of receiving a written request from the Customer's Nominated Contact. Such requests will be actioned during normal Business Hours. Configuration changes may be made outside these hours, on request by the Customer and will be charged at the Supplier's prevailing rates as set out in the Order Form, or as communicated by the Supplier to the Customer from time to time.
- 32.11** The Supplier will monitor relevant test applications on a 24x7x365 basis to ensure the Managed Hosted Applications Services are operational.
- 32.12** The Supplier will monitor the server's main resources continually: processor load, memory utilisation and, disk usage using various in-house monitoring tools and ILO/iDRAC remote management interfaces.
- 32.13** Should any Managed Hosted Application fail testing specified in Clauses 33.9 and 33.10, the Supplier will take immediate action to diagnose and rectify the fault. If the fault is caused by any other application than those specifically managed by the Supplier, the Customer's nominated technical contact will be contacted during Business Hours. Outside Business Hours, the Supplier will contact the Customer's nominated 24x7 contact, where such contact has been communicated to the Supplier.
- 32.14** The Supplier will apply non-urgent hot fixes, service packs and updated versions of packages as supplied by the vendor of the operating system or Managed Hosted Applications in a timely manner and in coordination with the Customer, with a minimum notice period of seven (7) Business Days.
- 32.15** In the event of the need to apply critical level or security Hotfixes from the relevant operating system or application vendor, the Supplier reserves the right to upgrade the relevant software without prior notification to the Customer where the Supplier reasonably considers this is required due to the urgent nature and security implications of the updates in question.
- 32.16** The Supplier will contact the Customer to confirm that the upgrade has been applied successfully and to confirm with the Customer that no Services have been disrupted by the upgrade. If there has been an issue with any upgrade which affects Customer applications or web applications, the Supplier will roll-back the upgrade (where reasonably practicable to do so), and will use all reasonable efforts to provide the Customer with the technical information



needed to resolve the relevant problems in advance of a further scheduled upgrade which must take place within two (2) Business Days. The Supplier will not accept responsibility however for any code modification or updates needed to Customer applications in such an event.

- 32.17** The Managed Hosted Applications, Dedicated Server and / or any Network Equipment will have a default ACL (Access Control List) based firewall applied. If more flexible ACL list and/or Stateful Inspection, Deep Packet, or other forms of firewalling are required, they will be indicated on the Order Form and delivered as a Managed Hosted Applications Services by the Supplier.
- 32.18** Where the Customer has selected or is receiving Managed Router/Firewall Services from the Supplier, all inbound and outbound traffic on the firewall will be completely blocked by default. Customers must specify rules on the Order Form for the service, including inbound/outbound IP address/subnet and port that they require opening. The Customer may request in writing changes to the configuration. This policy ensures that there is always a written record of the Customer requesting firewall rules opened. The hosted firewall includes setup of Stateful Inspection Firewalling.
- 32.19** Any additional support or configuration services not provided as part of the Contract may be provided by the Supplier to the Customer at the prevailing pricing rates set out in the Order Form, or as communicated by the Supplier to the Customer from time to time on request.
- 33** The technology layer is supported by the Supplier as part of the Managed Hosted Applications Services, but any business logic, consultancy or setup of the Managed Hosted Applications to suit the Customer's specific requirements is not part of the Managed Hosted Applications Services and will be carried out under separately agreed consultancy terms.

Part 5 – Product Service Levels

The following Service Levels apply to the Services described within this section, subject to the other provisions of these Conditions which may limit or reduce them. The remedies specified in this Section represent the exclusive remedy of the Customer for a failure by the Supplier to achieve the Service Levels.

- 34** The Supplier shall ensure that all “Co-Location Services” are supported by the following;
 - 34.1.1 Power Usage & AMPs Per Rack** – Standard power allocation will be at maximum usage of or apportioned relating to contracted Services as set out in the Order Form unless otherwise specified. A service level of 100% for electrical distribution to the data floor.
 - 34.1.2 Power Supply** - Operational and redundant electrical power supplies via UPS system as appropriate to the internationally accepted data centre tier standard applicable to the Premises. A service level of 100% for electrical distribution to the data floors.



- 34.1.3 Climate** - A designated down-flow air conditioning system capable of cooling the designated heat source. An average temperature of 23°C on the data floor. The temperature may fluctuate by +/- 2°C. This temperature range is only applicable where the outside temperature is no higher than 35°C and no lower than -1°C. For the avoidance of doubt, if at the time the maximum outside temperature exceeds 35°C or the minimum outside temperature is lower than -1°C, the Supplier will not be liable. The temperature is measured on the basis of the data room average temperature in any 24 hour period.
- 34.1.4 Security** - Internal video surveillance and recording system, covering all entrances and exits including the main exterior areas. Electric gates accessed via a RFID fob. The security systems will operate 24/7/365 days a year.
- 34.1.5 Technical Supplier Staff** - Provision of technical support from the Supplier on-site engineers who will act as the Customers supervised hands to perform routine equipment fixes and trouble shooting. 60 minutes of free Technical Supplier Staff per 24 hour period is included in the Fees. Additional time is chargeable at £45 per hour or part thereof. Note that the Supplier can withdraw without notice this service if the condition of any Racks or Cages, or any of the cabling, wiring or equipment therein, are deemed to represent a health & safety risk to Supplier's staff.
- 34.1.6 Cabling** - Passive connections will be provided installed and maintained by the Supplier, and will be subject for a charge depending on the nature of the work involved. Each cable will be tested and certified upon installation. The Customer may request for the cable connections to be re-tested by the Supplier. Any resulting service interruption will not be covered by this Service Level Agreement.

35 Notification and logging of failures

- 35.1** The Supplier will notify the Customer as soon as reasonably practicable (using either the 24 hour telephone number provided by the Customer on the Supplier's security access procedure form or the online portal ticket system) in the event that any of the following events have occurred and have affected the Co-Location Services:
- 35.1.1** any disaster or act of God including (but not limited to) explosions, fire, or flood;
 - 35.1.2** theft or burglary;
 - 35.1.3** power failure;
 - 35.1.4** cooling failure
- 35.2** Any faults detected the Supplier and notified to the Customer will be logged by the Supplier and will receive a "Ticket" number.
- 35.3** Any faults or problems detected by the Customer must be reported immediately by the Customer (and in any event within 24 hours of detection by the Customer) to the Supplier's



Network Operations Centre (“NOC”) using the online portal ticket system or (in the event that it is not working) using a telephone number provided to the Customer. The fault or problem will then be logged by the NOC, and the Customer will receive a Ticket number.

36 Response time

36.1 In the event that a problem concerning one of the Co-Location Services (“Event”) is either detected by the Supplier or reported by the Customer in accordance with the provisions of this Service Level Agreement, the Supplier shall use its best endeavours to repair and restore the affected Core Service within the following response times:

36.1.1 Critical Event - Any failure of a Core Service causing loss of power to the Customer’s service. Immediate once the Event has been assigned a Ticket number. Within 1 hour of sending the Ticket number.

36.1.2 Non-critical Event - Any failure affecting a Core Service but which is not a Critical Event. Supplier will respond to the customer within thirty (30) minutes of the registration of a fault. Within 4 hours of registration of the fault.

36.2 The response times will not apply where:

36.2.1 an Event is caused by any act or omission of the Customer, its employees, agents, or subcontractors;

36.2.2 an Event is caused by the Customer’s equipment;

36.2.3 an Event is caused by a Force Majeure event;

36.2.4 the Customer does not report an Event in accordance with the procedures set out in this Service Level Agreement.

36.2.5 if at the time the maximum outside temperature exceeds 35°C or the minimum outside temperature is lower than -1°C, the Supplier will not be liable to give Fee Credits in respect of the climate SLA

37 Fee Credits

37.1 The Supplier aims to provide 100% of the Service Levels set out in this Service Level Agreement. If any Event occurs which is not remedied within the target time for repair, If there is a total cumulative loss of service to the Licensed Space of more than one (1) hour in any calendar month, the supplier will credit to the Customer's account a pro rata share of the Price paid by the Customer for bandwidth and Licensed Space in respect of that calendar month (based on the proportion which the total downtime bears to the overall bandwidth time paid for by the Customer for bandwidth in respect of that calendar month).

38 Planned maintenance



- 38.1** Save in situation which is a Force Majeure Event under Clause 15 of the Contract, where the Supplier considers (in its sole discretion) that it is necessary to carry out maintenance activities that will affect or can reasonably be expected to affect the Customer's operations, the Supplier shall notify the Customer at least 48 hours in advance of the commencement of the works detailing the nature of the work to be carried out and the timetable for completion of the works. These works will be carried out in accordance with the Supplier's standard procedures which are available upon request by the Customer. If a Force Majeure Event exists, no advance notice is required.

Part 5 – Products – Cloud Backup – Online Cloud Backup Services using Veeam Cloud Connect or Acronis Backup

In addition to the general terms set out within Section A to these Conditions, the following specific provisions shall apply to the Cloud Backup Services.

Where the context admits: "IHS Cloud Backup", "We", "Our" & "Us" This refers of: Intelligence Hosting Services Limited, Unit B3A, Crimble Court, Hornbeam Square North, Harrogate, North Yorkshire, HG2 8PB. United Kingdom. Cloud Backup is an offsite online backup storage service that Users use to store files online via software named Veeam Cloud Connect or Acronis Backup.

- 39** This Terms of Use Agreement ("Agreement") sets forth the legally binding terms for your use of the IHS Cloud Backup service. By using the IHS Cloud Backup service, you agree to be bound by this Agreement. You are only authorized to use the IHS Cloud Backup service if you agree to abide by all applicable laws and to this Agreement. Please read this Agreement carefully and save it. If you do not agree with it, you should discontinue use of the IHS Cloud Backup service immediately.
- 40** IHS Cloud Backup may modify this Agreement from time to time and such modification shall be effective upon posting by IHS Cloud Backup on the IHS Cloud Backup Websites. IHS Cloud Backup will inform Users by email about such modifications where practical to do so. If you do not agree with such modification you have the right to terminate your IHS Cloud Backup service. You agree to be bound to any changes to this Agreement when you use the IHS Cloud Backup service after the modification has been posted for at least one month. It is therefore important that you review this Agreement regularly to ensure you are updated as to any changes.
- 41** **Use of the IHS Cloud Backup Service**



- 41.1** Use of the IHS Cloud Backup Service is void where prohibited to use the service by local law.
- 41.2** By using the IHS Cloud Backup Service, you represent and warrant that:
- 41.3** All registration information you submit is truthful and accurate;
- 41.4** You will maintain the accuracy of such information;
- 41.5** You are 18 years of age or older;
- 41.6** Your use of the IHS Cloud Backup Service does not violate any applicable law or regulation;
- 41.7** When you sign up to become a User, you will also be asked to choose a password. You are entirely responsible for maintaining the confidentiality of your password. You agree not to use the account or password of another User at any time or to disclose your password to any third party. You agree to notify IHS Cloud Backup immediately if you suspect any unauthorised use of your account or access to your password. You are solely responsible for any and all use of your account.
- 41.8** You will create, maintain and use only one User account and password on the IHS Cloud Backup Service.
- 41.9** You will not use the IHS Cloud Backup Service in any manner which infringes any law or regulation or which infringes the rights of any third party, nor will you authorise or permit any other person to do so.
- 41.10** Without limiting the foregoing, you will not use IHS Cloud Backup Service for any of the following activities:
- 41.11** Criminal or tortuous activity, including child pornography, fraud, trafficking in obscene material, drug dealing, gambling, harassment, stalking, spamming, spimming, sending of viruses or other harmful files, copyright infringement, patent infringement, or theft of trade secrets;
- 41.12** Advertising to, or solicitation of, any User to buy or sell any products or services through the IHS Cloud Backup Service. You may not transmit any chain letters or junk email to other Users. It is also a violation of these rules to use any information obtained from the IHS Cloud Backup Service in order to contact, advertise to, solicit, or sell to any User without their prior explicit consent;
- 41.13** Any automated use of the system, such as using scripts to copy files or data;



- 41.14** interfering with, disrupting, or creating an undue burden on the IHS Cloud Backup Service or the networks or services connected to the IHS Cloud Backup Service;
- 41.15** Attempting to impersonate another User or person;
- 41.16** using the account, username, or password of another User at any time or disclosing your password to any third party or permitting any third party to access your account;
- 41.17** selling or otherwise transferring your IHS Cloud Backup Service;
- 41.18** using any information obtained from the IHS Cloud Backup Service in order to harass, abuse, or harm another person or Company;
- 41.19** using the IHS Cloud Backup Service in a manner inconsistent with any and all applicable laws and regulations;
- 41.20** We shall use our reasonable endeavours to make available to you at all times the IHS Cloud Backup Service but we shall not, in any event, be liable for interruptions to or unavailability of the IHS Cloud Backup Service.
- 41.21** IHS Cloud Backup reserves the right, in its sole discretion, to reject, restrict, suspend, or terminate your access to all or any part of the IHS Cloud Backup Service at any time, with or without prior notice.

42 Content

- 42.1** IHS Cloud Backup does not claim any ownership rights in the text, files, images, photos, video, sounds, musical works, works of authorship, or any other materials (collectively, "Content") that you upload to IHS Cloud Backup Service.
- 42.2** You represent and warrant that you're uploading any Content to IHS Cloud Backup service does not violate the privacy rights, publicity rights, intellectual property rights (including copyrights), contract rights or any other rights of any person. You agree to pay for all royalties, fees, and any other monies owing any person by reason of any Content uploaded by you to the IHS Cloud Backup service.



- 43 Without limiting the foregoing, you will not upload any Content to the IHS Cloud Backup Service which:**
- 43.1** is patently offensive or promotes racism, bigotry, hatred or physical harm of any kind against any group or individual;
 - 43.2** Harasses or advocates harassment of another person;
 - 43.3** exploits people in a sexual or violent manner;
 - 43.4** contains nudity, violence, or offensive subject matter or contains a link to an adult website;
 - 43.5** solicits personal information from anyone under 18;
 - 43.6** Promotes information that you know is false or misleading or promotes illegal activities or conduct that is abusive, threatening, obscene, defamatory or libellous;
 - 43.7** promotes an illegal or unauthorized copy of another person's copyrighted work, such as providing pirated computer programs or links to them, providing information to circumvent manufacture-installed copy-protect devices, or providing pirated music or links to pirated music files;
 - 43.8** involves the transmission of "junk mail," "chain letters," or unsolicited mass mailing, instant messaging, "spimming," or "spamming";
 - 43.9** furthers or promotes any criminal activity or enterprise or provides instructional information about illegal activities including, but not limited to making or buying illegal weapons, violating someone's privacy, or providing or creating computer viruses;
 - 43.10** solicits passwords or personal identifying information for commercial or unlawful purposes from other Users;
 - 43.11** involves commercial activities and/or sales without Our prior written consent such as contests, sweepstakes, barter, advertising, or pyramid schemes;
 - 43.12** includes a photograph of another person that you have uploaded without that person's consent;
- 44 By using the facilities of the IHS Cloud Backup Service to make Content available to other Users ("Shared Content"):**



- 44.1** You grant to IHS Cloud Backup a limited license to use, modify, publicly perform, publicly display, reproduce, and distribute your Shared Content on and through the IHS Cloud Backup Service. The license you grant to IHS Cloud Backup is non-exclusive, perpetual, fully-paid and royalty-free, sub-licensable, and worldwide;
- 44.2** You represent and warrant that you own the Shared Content or otherwise have the right to grant the license set forth in this section;
- 44.3** IHS Cloud Backup may delete from the IHS Cloud Backup Service any Content that in the sole judgment of IHS Cloud Backup violates this Agreement or which we deem inappropriate.
- 44.4** IHS Cloud Backup assumes no responsibility for any error, omission, interruption, loss, deletion, defect, theft, destruction or unauthorized access to, or alteration of any Content you upload to the IHS Cloud Backup Service.
- 44.5** You are solely responsible for the Content that you upload to the IHS Cloud Backup Service, and any material or information that you transmit to other Users and for your interactions with other Users. IHS Cloud Backup does not endorse and has no control over the Content. Content is not necessarily reviewed by IHS Cloud Backup and does not necessarily reflect the opinions or policies of IHS Cloud Backup. IHS Cloud Backup makes no warranties, express or implied, as to the Content or to the accuracy and reliability of the Content or any material or information that you transmit to other Users.
- 44.6** IHS Cloud Backup assumes no responsibility for monitoring the IHS Cloud Backup Service for inappropriate Content or conduct. If at any time IHS Cloud Backup chooses, in its sole discretion, to monitor the IHS Cloud Backup Service, IHS Cloud Backup nonetheless assumes no responsibility for the Content, no obligation to modify or remove any inappropriate Content, and no responsibility for the conduct of the User uploading any such Content.
- 44.7** IHS Cloud Backup assumes no responsibility for monitoring the IHS Cloud Backup service, the users data integrity, or the data uploading scheduling.

45 Copyright Policy

- 45.1** You may not share, distribute, or reproduce in any way any copyrighted material, trademarks, or other proprietary information belonging to others without obtaining the prior written consent of the owner of such proprietary rights. It is the policy of IHS Cloud Backup to terminate IHS Cloud Backup usage privileges of any User who repeatedly infringes the copyright rights of others upon receipt of prompt notification to IHS Cloud Backup by the copyright owner or the copyright owner's legal agent.



45.2 Without limiting the foregoing, if you believe that your work has been copied and posted on the IHS Cloud Backup Service in a way that constitutes copyright infringement, please provide us with the following information:

45.2.1 An electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;

45.2.2 A description of the copyrighted work that you claim has been infringed;

45.2.3 A description of where the material that you claim is infringing is located on the IHS Cloud Backup Service;

45.2.4 Your address, telephone number, and email address;

45.2.5 A written statement by you that you have a good faith belief that the disputed use is not authorised by the copyright owner, its agent, or the law

6. A statement by you, made under penalty of perjury, that the above information in your notice is accurate and that you are the copyright owner or authorised to act on the copyright owner's behalf.

46 Fees

46.1 All charges payable by you for the IHS Cloud Backup Service shall be in accordance with the scale of charges and rates published from time to time by Us on Our web site or agreed on via email, errors and omissions excepted and shall be due and payable in advance of provision of the IHS Cloud Backup Service.

46.2 We reserve the right to alter pricing including ceasing to offer elements of the IHS Cloud Backup Service free of charge at any time. IHS Cloud Backup will inform Users by email if the charge for a service is to be altered. You can then decide if you want to continue to use such service. Your continued use of the service after the proposed fee modification has been notified will be considered acceptance of the proposed fee modification.

46.3 Payment is due each anniversary month, quarter or year following the date the IHS Cloud Backup Service were established until closure notice is given.

46.4 All fees for our services are due in advance and your contract will automatically renew on its anniversary month, quarter or year at which point fees for the following month, quarter or year become payable. If you wish to cancel your contract with IHS Cloud Backup, you must do so in writing 1 month before the renewal of your contract.



46.5 If your IHS Cloud Backup usage is terminated, you will be entitled to a pro rata refund based upon the remaining period of prepayment. You will not be entitled to a refund under any other circumstances. Any refund will be issue to the same payment source used for the initial payment.

47 Free Trial Period

47.1 Where services are offered on a 'free trial' basis payment will be taken for the first month, quarter or year at the commencement of the free trial period.

47.2 The renewal date for the contract shall be deemed to be one month, quarter or year following the advertised free trial period.

47.3 If you wish to cancel your contract during the free trial period you may do so.

47.4 If you cancel your service during the free trial period you will be entitled to receive a full refund of all fees paid in relation to the service. Any refund will be issue to the same payment source used for the initial payment.

47.5 If you do not cancel your service prior to the end of the free trial period the fees for the first month, quarter or year of your service will become due.

48 Term and Termination

48.1 This Agreement shall remain in full force and effect while you use the IHS Cloud Backup Service or are a User. Even after IHS Cloud Backup usage is terminated, this Agreement will remain in effect.

48.2 You may terminate your IHS Cloud Backup usage at any time, for any reason in writing via email or paper letter.

48.3 IHS Cloud Backup may suspend the provision of IHS Cloud Backup Service to you and/or terminate your IHS Cloud Backup usage without notice to you if you:

48.3.1 Fail to pay any sums due to Us as they fall due.

48.3.2 Breach any term of this Agreement.



48.3.3 Are a company and you go into liquidation or suffer the appointment of an administrator or administrative receiver or enter into a voluntary arrangement with your creditors.

48.4 IHS Cloud Backup reserves the right, in its sole discretion, to suspend the provision of IHS Cloud Backup Service to you and/or terminate your IHS Cloud Backup usage at any time, without warning.

49 Privacy

49.1 Use of the IHS Cloud Backup is also governed by Our Privacy Policy, which is incorporated into this Agreement by this reference.

50 Indemnity

50.1 You shall indemnify Us and keep Us indemnified and hold Us harmless from and against any breach by you of this Agreement and any claim brought against Us by a third party resulting from the provision of the IHS Cloud Backup Service by Us to you and your use of the IHS Cloud Backup Service including, without limitation, all claims, actions, proceedings, losses, liabilities, damages, costs, expenses (including reasonable legal costs and expenses), howsoever suffered or incurred by Us in consequences of your breach or non-observance of any of the terms of this Agreement including if any Content that you post on the IHS Cloud Backup Websites or through the IHS Cloud Backup Service causes IHS Cloud Backup to be liable to another.

51 Limitation of Liability

51.1 IHS Cloud Backup will not be responsible for any Data Content uploaded to the IHS Cloud Backup data vaults, whether caused by Users of the IHS Cloud Backup service or by any of the equipment or programming associated with or utilised in the IHS Cloud Backup Service.

51.2 IHS Cloud Backup is not responsible for any problems or technical malfunction of any telephone network or lines, computer online systems, servers or providers, computer equipment, software, failure of any email or to technical problems or traffic congestion on the Internet or on any of the IHS Cloud Backup Service or combination thereof.

51.3 IHS Cloud Backup is not responsible for any error, omission, interruption, loss, deletion, defect, theft, destruction or unauthorised access to, or alteration of any Content you upload to the IHS Cloud Backup Service, whether or not the IHS Cloud Backup software or Technician is to blame.



- 51.4** All conditions, terms, representations and warranties relating to the IHS Cloud Backup Service supplied under this Agreement, whether imposed by statute or operation of law or otherwise, that are not expressly stated in these terms and conditions including, without limitation, the implied warranty of satisfactory quality and fitness for a particular purpose are hereby excluded to the extent applicable under UK law.
- 51.5** Nothing in these terms and conditions shall exclude Our liability for death or personal injury resulting from Our negligence.
- 51.6** Our total aggregate liability to you for any claim in contract, tort, negligence or otherwise arising out of or in connection with the provision of the IHS Cloud Backup Service shall be limited to the charges paid by you in respect of the services which are the subject of any such claim.
- 51.7** In any event no claim shall be brought unless you have notified Us of the claim within one month of it arising.
- 51.8** In no event shall we be liable to you for any loss of business, contracts, profits or anticipated savings or for any other indirect or consequential or economic loss whatsoever.
- 51.9** Non-Waiver.
- 51.10** Any forbearance or failure by Us to enforce a provision to which you are subject shall not affect Our right to require such performance at any subsequent time, nor shall the waiver or forbearance by Us of any breach of any provisions of the agreement herein be taken to be or held to be a waiver of the provision or provisions itself of themselves.

52 Law

- 52.1** This Agreement shall be governed by and construed in accordance with English law and you hereby submit to the exclusive jurisdiction of the English courts.

53 Headings

- 53.1** Headings are included in this Agreement for convenience only and shall not affect the construction or interpretation of this Agreement.

54 Entire Agreement



Intelligence
Hosting
Services

- 54.1** These terms and conditions together with any documents expressly referred to in them, contain the entire Agreement between Us relating to the subject matter covered and supersede any previous Agreements, arrangements, undertakings or proposals, written or oral: between Us in relation to such matters. No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions. In agreeing to this Agreement, you confirm that you have not relied on any representation other than those expressly stated in this Agreement and you agree that you shall have no remedy in respect of any misrepresentation which has not been made expressly in this Agreement.

Signatory Full Name

Date

Signature

These terms and conditions are to be signed and dated by a person or employee of substantial control or position within the Customers organisation. By signing these terms and conditions, the Supplier and Customer are bound in the form of a contractual agreement in accordance to these terms and conditions above, in this document, and in relation to the given Customer Order Form.