



**Bordesley Hall  
The Holloway  
Alvechurch  
Birmingham  
B48 7QA**

## **Data Centre Terms and Conditions**

These Terms and Conditions detail the expectations between Datatech UK Ltd and the Client.

The Terms and Conditions have been broken down into twelve key aspects:

- Scope
- Datatech UK Ltd's Services
- Contractual Relationship, Beginning of Contract
- Client Obligations
- Client Responsibility and code of conduct
- Datatech UK Ltd's Measures on Infringements of Rights and Threats
- Payment Terms
- Datatech UK Ltd's Liability
- Data Protection
- Intellectual Property Rights
- Terms of Termination of Contract
- Indemnity
- Amendment to Terms and Conditions
- Governing Law

Up-dated: February 2011

## 1. Scope

- a) Datatech UK Ltd will deliver all of the Data Centre's services exclusively based on these Terms and Conditions. This document is exclusively used when a client makes use of the Terms and Conditions and these hold provisions that are contrary to or deviating from the present Terms and Conditions.
- b) Datatech UK Ltd has the right to change this document at any time without notice. All Datatech UK Ltd's clients shall be notified of any changes made to this document within 48 hours of the changes being made. Unless any objections are made within 14 days of the issue of the Notice of Change, the changes made shall be deemed as approved by all.
- c) This Terms and Conditions document is available online by visiting [www.datatechuk.com](http://www.datatechuk.com).

## 2. Datatech UK Ltd's Services

- a) The scope of services provided by Datatech UK Ltd is determined and applicable at the time of the order.
- b) Internet Connectivity to the Data Centre shall be a minimum yearly average of 99.95%. Datatech UK Ltd informs all clients there may be occasions of reduced or limited connectivity due to third party actions. These reductions in service caused by a third party are not covered by Datatech UK Ltd's Service Level Agreement mandate; this particularly includes but is not limited to Internet errors outside of Datatech UK Ltd's control and force majeure. Also client's hardware / software / infrastructure could also have an impact on the efficiency of Datatech UK Ltd's services, in such circumstances Datatech UK Ltd shall be deemed to be within the Terms of the Contract.
- c) Datatech UK Ltd performs maintenance work on a regular basis to ensure network security, integrity and efficiency. On some occasions it may be deemed necessary to temporarily restrict or interrupted services. All planned maintenance work will be carried out at times of low connectivity usage. On occasions of any planned maintenance when the reduction of service is going to be longer than 15 minutes all Datatech UK Ltd's clients will be informed. All notifications will be given a minimum of 48 hours prior to the commencement of any maintenance works. We will ensure that there are no more than three scheduled maintenance projects in any one calendar month that will cause an interruption to the client

- d) Datatech UK Ltd may, at our absolute discretion, change the Infrastructure, backbone, hardware, software and third party suppliers at any time. Only if specific infrastructure, backbone, hardware, software and third party suppliers have been specified in the contractual agreement will there be no changes made without prior consent.
- e) Datatech UK Ltd has the right to modify services if in the best interests of the clients and Datatech UK Ltd. Any modifications will be carried out after due notice has been given and no objections have been raised within 7 days of the issue of any notice.
- f) Datatech UK Ltd reserves the right to change or re-allocate IP addresses if required for technical or legal reasons. In this instance the client is required to co-operate in the changes to their systems.
- g) All Clients can increase / decrease the agreed commitment on both the committed transit and the committed power usage. This can be done after a request has been agreed by Datatech UK Ltd. All changes in agreement will commence after the next billing cycle.

### 3. Contractual Relationship, Beginning of Contract

- a) Once contracts are signed the agreement will commence from the date agreed on the contract. Failure as a result of Datatech UK Ltd not meeting those agreement dates for whatever reason, will result in the contract starting on activation of the clients connections.
- b) In certain circumstances, Datatech UK Ltd will accept confirmation of orders via email from an Authorised Person **PROVIDED** the Client is already a Data Centre Client of Datatech UK Ltd and as such is known to Datatech UK Ltd.
- c) All items detailed in this document become applicable once the contract is signed or in the case of Clause 3b an email has been received from an Authorised person of the Client.
- d) It is agreed by both parties of any Agreement that all Dedicated Servers will carry a minimum 12 month contract.

### 4. Client Obligations

- a) It is the client's obligation to provide all the correct information required be it email addresses, bank details etc. Failure to do so will be a breach of contract. A New Client Information Form will be provided for completion by the Client with the required information needed by Datatech UK Ltd

- b) Datatech UK Ltd sends all notifications via email. All information sent will be checked to see if the mail has been delivered. It is the responsibility of the client to check and read their emails.
- c) It is the client's responsibility to set up their systems so as not to restrict or impede the integrity or security of Datatech UK Ltd's infrastructure. Failure to conform to this may result in restriction of service or if constantly flouting the terms and conditions may result in cancellation of the contract.
- d) It is at the client's discretion whether they wish to disclose passwords to Datatech UK Ltd for administration purposes. Any passwords that are disclosed are not recorded for security purposes. Datatech UK Ltd recommends changing system passwords on a regular basis.
- e) Datatech UK Ltd recommends that all data stored in the Data Centre is backed up. The client can provide their own solution or chose one of Datatech UK Ltd's service solutions. Datatech UK Ltd will not under any circumstances be responsible for any loss of data.
- f) Datatech UK Ltd recommends that Clients supply their own firewall equipment. Datatech UK Ltd will not be held responsible for lack of security measures that could enable a breach of the equipment.

## 5. Client Responsibilities and Code of Conduct

- a) The client is responsible to ensure the content and data stored on their systems are within legal restraints and third party rights. In respects of international domains laws of other countries that may apply.
- b) The clients systems must be free of any extremist, pornographic or commercially oriented erotic content. It is the Client's responsibility to check hyperlinks and third party websites for their content. Failure to do so could lead to a reduction of service.
- c) The sending of spam is strictly forbidden, this also includes unlawful and unsolicited promotional material to third parties. Failure to comply will lead to a reduction of service.
- d) The client is responsible for maintaining usage within the agreed levels as outlined in the completed and signed Quotation / Order Form. Any excess usage will be charged to the client on a monthly basis and the client agrees to the payment of any excess charges. Continued over usage may result in services being restricted and at the discretion of Datatech UK Ltd may result in the cancellation of this Agreement.
- e) It is the client's responsibility to ensure that **ALL** their own equipment installed in the Data Centre is fully insured. Datatech UK Ltd's own

insurance cover will **NOT** cover any client equipment. Datatech UK Ltd will not accept any liability for un-insured equipment.

## **6. Datatech UK Ltd's Measures on Infringements of Rights and Threats**

- a) Datatech UK Ltd has the right to restrict or deny service if there is a breach of these Terms and Conditions.
- b) A restriction can be placed on services if Datatech UK Ltd believes Terms and Conditions have been ignored. It is the client's responsibility to prove that they have kept within the Terms and Conditions.
- c) It is down to the sole discretion of Datatech UK Ltd on what action to take against breaches of the Terms and Conditions.
- d) In no respects shall the client surrender the use of Datatech UK Ltd owned dedicated servers to third parties. All Agreements must be agreed with Datatech UK Ltd prior to the completion of the contract.
- e) Datatech UK Ltd has the right to restrict service if they deem that necessary to preserve the integrity of the infrastructure.
- f) If at any time the security or integrity of the infrastructure is put at risk by the client, Datatech UK Ltd has the right to restrict or deny service.
- g) For all breaches of service the client will be notified in writing.
- h) If the contract is to be cancelled because of a breach of any Terms and Conditions then the full cost of the remaining period of the contract will be required to be paid in full within 28 days of the issue of Cancellation of Contract notification to the Client.

## **7. Payment Terms**

- a) The client shall pay Datatech UK Ltd on demand all applicable charges for the relevant Service at rates specified in the agreed contract.
- b) Rental for the service will start on the Service Delivery Date, unless Datatech UK Ltd notify the client of a later date for the start of service when rental will be payable from the revised date.
- c) Rental is payable in advance but at our absolute discretion we may bill you in arrears. Except for temporary services. You must pay rental in accordance with Datatech UK Ltd's billing cycle. We will apportion rental on a daily basis for incomplete billing periods.

- d) All amounts due under this Agreement shall be paid in full without any deduction or withholding other than as required by law. The client shall not be entitled to assert any credit, set-off or counterclaim against Datatech UK Ltd in order to justify withholding payment of any such amount in whole or in part.
- e) Datatech UK Ltd reserve the right to charge interest calculated on a daily basis on any balances which remain unpaid from the due date to the date of payment at a rate of 8.00% above the Bank of England Base Rate prevailing at the time of non-payment and until such time as payment in full is received. The due date being 7 days from the issue of such Invoice.
- f) Datatech UK Ltd reserve the right to charge an administration fee of £25.00 in addition to any interest charged as outlined in clause 7e above

## **8. Datatech UK Ltd's Liability**

- a) In respect to all non-contractual and contractual claims that may arise Datatech UK Ltd shall only be liable according to the following conditions:
  - i. Full liability for intentional damage or death or bodily harm or injuries to health; if the claim is based on Product Liability the extent of the liability is determined by the national transformation of Product Liability Directive (85/374/EEC)
  - ii. Full Liability for damage caused by negligence of legal representatives, executives or persons employed in the contractual obligations
  - iii. If the client is a public law entity, an entrepreneur or a public sector special fund, Datatech UK Ltd's liability for damage due to gross negligence of standard employees is restricted to the damage typically foreseeable at the conclusion of the contract; Datatech UK Ltd's liability is restricted to the overall sum of the contractual fees that Datatech UK Ltd has received from the client in the context of the specific contract during the last two years preceding the occurrence of the action causing the damage; the liability for gross negligence towards clients is unlimited.
  - iv. In the event of negligent infringement of an obligation essential for the contract, liability is restricted to the damage that was typically foreseeable at the conclusion of the contract.
  - v. In the event of ordinary negligence, Datatech UK Ltd's liability is restricted to the overall sum of the contractual fees that Datatech UK Ltd has received from the client in the context of the specific contract during the last two years preceding the

occurrence of the action causing the damage; liability for indirect damage due to ordinary negligence is excluded.

- b) All claims for international damage or damage due to gross negligence or death or bodily harm and / or injury to health, all damage claims are subject to a limitation period of one year from the date of the action causing the damage.

## **9. Data Protection**

Datatech UK Ltd collects and processes data based on legal provisions for Data Protection. All details can be found in Datatech UK Ltd's Data Protection Statement / Privacy Policy. This is available at [www.datatechuk.com](http://www.datatechuk.com)

## **10. Intellectual Property Rights**

Datatech UK Ltd reserves the Intellectual Property Rights on all but not limited to any coding, scripts or services provided to the client within the Data Centre.

## **11. Terms of Termination of Contract**

- a) All termination of contract applications are to be made in writing and sent to [accounts@datatechuk.com](mailto:accounts@datatechuk.com) or by post to Datatech UK Ltd, Bordesley Hall, The Holloway, Alvechurch, Birmingham, B48 7QA or by Fax to 08450 565657
- b) All applications to terminate a contract shall be signed by an authorised signatory within the company applying for the termination.
- c) Datatech UK Ltd reserves the right to terminate any contractual obligations due to lack or continual late payment or for any other good cause stated in client obligations. Any contract terminated will be completed after reasonable written notice is given.
- d) If for whatever reason the contract is terminated by either party other than for a breach as stated in Clause 6, then half of the full cost of the remaining period of the contract will be required to be paid in full within 28 days of the issue of Cancellation of Contract notification and Invoice.
- e) Failure to make any Termination Payment by the due date will result in Datatech UK Ltd charging a Late Payment Fee at a rate of 8.00% above the Bank of England base Rate prevailing at the time until such time as payment in full is received.

## 12. Indemnity

The Client shall compensate Datatech UK Ltd for any damage caused from a breach of the forgoing provisions to the extent that it is responsible for. Any compensation shall also include reasonable costs for any legal defence that may be necessary.

Datatech UK Ltd will inform the Client without delay if Datatech UK Ltd or any third parties assert such claims and shall give the Client ample opportunity to state their views.

## 13. Amendment to Terms & Conditions

These Terms and Conditions may be amended by Datatech UK Ltd at their absolute discretion and any amendments will be posted on our website [www.datatechuk.com](http://www.datatechuk.com) for clients information.

## 14. Governing Law

These terms and conditions shall be governed by and construed in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the English courts.

### WHEREBY IT IS AGREED as follows:

**IN WITNESS** whereof the hands of the parties or their duly authorised attorneys or representatives have duly agreed to the Terms and Conditions herein as at the  
day of 20 .

### SIGNED for and behalf of DATATECH UK LTD

By.....

Name.....

Position.....

### SIGNED for and behalf of the CLIENT

Client Name.....

By.....

Name.....

Position.....