



Managed Services Agreement

DATE OF ORDER	
CUSTOMER	
REGISTERED OFFICE	
COMPANY NUMBER	
INITIAL TERM	
SERVICES	<input type="checkbox"/> Installation and configuration <input type="checkbox"/> Internet connectivity <input type="checkbox"/> Security services <input type="checkbox"/> Monitoring services <input type="checkbox"/> Backup, archiving and recovery <input type="checkbox"/> Cloud hosting <input type="checkbox"/> Release management and change control <input type="checkbox"/> Administration services <input type="checkbox"/> []
AGREED LEVEL OF USAGE	<input type="checkbox"/> Committed Power: <input type="checkbox"/> Committed Transit:

IMPORTANT NOTICE FOR ALL CUSTOMERS

- BY SUBMITTING AN ORDER TO THE SUPPLIER, THE CUSTOMER AGREES TO THE TERMS OF THESE CONDITIONS WHICH WILL BIND THE CUSTOMER AND ITS EMPLOYEES. THE TERMS OF THESE CONDITIONS INCLUDE, IN PARTICULAR, LIMITATIONS ON LIABILITY IN CLAUSE 17.
- IF THE CUSTOMER DOES NOT AGREE TO THE TERMS OF THESE CONDITIONS, THE SUPPLIER WILL NOT SUPPLY THE SERVICES TO THE CUSTOMER AND THE CUSTOMER MUST DISCONTINUE THE ORDERING PROCESS.



Managed Services Agreement

We hereby agree to the Conditions annexed to this Order (together with the schedules annexed to this Order).	
Signed by: MARC BANYARD for and on behalf of DATATECH UK LIMITED Director
Signed by: for and on behalf of Director



Managed Services Agreement

CONTENTS

CLAUSE

1. Interpretation.....	1
2. Basis of contract.....	4
3. Service provision	5
4. Customer Data	6
5. Supplier's obligations	9
6. Security	9
7. Customer's obligations.....	10
8. Committed Power	11
9. Committed Transit	11
10. Warranties	11
11. Charges and payment	12
12. Change control.....	12
13. Continuous improvement	13
14. Proprietary rights	13
15. Domain names	14
16. Confidentiality.....	14
17. Limitation of liability	16
18. Term and termination.....	17
19. Force majeure	19
20. Waiver	20
21. Severance.....	20
22. Entire agreement and variation	20
23. Assignment.....	21
24. No partnership or agency	21



Managed Services Agreement

25.	Third party rights.....	21
26.	Rights and remedies.....	21
27.	Notices	21
28.	Dispute resolution.....	22
29.	Governing law and jurisdiction	23
SCHEDULE		
Schedule 1	Fees	24
Schedule 2	Personnel	25
1.	Supplier	25
2.	Customer.....	25
Schedule 3	Services Specification.....	26
1.	Installation and configuration.....	26
2.	Internet connectivity.....	26
3.	Security services.....	26
4.	Monitoring services	27
5.	Backup, archiving and recovery services	27
6.	Cloud hosting services	27
7.	Release management and change control	28
8.	Administration services.....	28
Schedule 4	Maintenance and support.....	29
1.	Maintenance Events	29
2.	Technical support services.....	29
Schedule 5	Service Level Arrangements.....	31
1.	Service availability.....	31
Schedule 6	Committed Power	32
Schedule 7	Committed Transit	34



Managed Services Agreement

The Customer's attention is specifically drawn to clause 17 of these Conditions

1. Interpretation

1.1 The definitions and rules of interpretation in this clause 1 apply in these Conditions.

Business Day: a day, other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Change Control Procedure: the procedures set out in clause 12.

Committed Power Terms: the conditions that relate specifically to committed power usage as set out in Schedule 6.

Committed Transit Terms: the conditions that relate specifically to committed transfer usage as set out in Schedule 7.

Conditions: these conditions.

Confidential Information: all confidential information (however recorded or preserved) disclosed by a party or its employees, consultants, officers, representatives, advisers, agents or sub-contractors involved in the provision or receipt of the Services (together, its **Representatives**) to the other party or that party's Representatives in connection with these Conditions which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure.

Contract: the contract between the Supplier and the Customer which incorporated the matters set out in the Order and these Conditions.

CSRs: has the meaning given in paragraph 12.1 of O 4.

Customer: the customer for the Services whose details are set out in the Order.

Customer Account Team: the individuals appointed by the Customer from time to time who shall serve as the Supplier's primary contacts for the Supplier's activities under these Conditions. The initial members of the Customer Account Team are listed in Schedule 2.

Customer Data: any information that is provided by or on behalf of the Customer to the Supplier as part of the Customer's use of the Services, including any information derived from such information.

Customer Personal Data: any personal data comprised in the Customer Data.

Customer's Project Manager: the member of the Customer Account Team appointed in accordance with clause 7(b). The Customer's Project Manager at the Commencement Date is named in Schedule 2.

Managed Services Agreement

Customer Software: has the meaning given to that term in the definition of Software.

Data Controller: has the meaning given to that term in the Data Protection Legislation.

Data Processor: has the meaning given to that term in the Data Protection Legislation.

Designated Representative: has the meaning given in clause 28.2.

Disaster Recovery Plan: the plans maintained by the Supplier containing the actions to be taken, the resources to be used and the procedures to be followed to support recovery in the event of a disaster affecting the Services.

Dispute: has the meaning given in clause 27.1.

Dispute Notice: has the meaning given in clause 28.1.

Dispute Resolution Procedure: the procedure described in clause 28.

Data Protection Legislation: up to but excluding 25 May 2018, the Data Protection Act 1998 and thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

Fees: the fees payable to the Supplier, as described in Schedule 1.

Force Majeure Event: has the meaning given in clause 19.1.

Hardware: all physical telecommunications, networking and computer equipment (including switches, routers, cables, servers, racks, cabinets and peripheral accessories) provided and used by the Supplier to deliver the Services to the Customer as set out in 0 3.

Initial Term: the period from the Commencement Date until the date set out in the Order.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all existing and future rights capable of present assignment, applications for and renewals or extensions of and rights to claim priority from such rights, and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Maintenance: any error corrections, updates and upgrades that the Supplier may provide or perform with respect to the Services, as well as any other support or training services to be provided to the Customer under these Conditions, all as described in Schedule 4.

Maintenance Events: has the meaning given in paragraph 11 of 0 4.



Managed Services Agreement

Normal Business Hours: 9:00 am to 5.00 pm local UK time on Business Days.

Permitted Purpose: has the meaning given in clause 16.2(a).

Order: the order for the Services which shall include these Conditions and the Schedules.

Regulatory Requirement: has the meaning given in clause 18.8.

Representatives: has the meaning given to that term in the definition of Confidential Information.

Service Level Arrangements: the service level arrangements set out in 0 5.

Service Requirements: the Customer's requirements for the Services as set out in the Order.

Services: the services described in the Services Specification to be performed by the Supplier in accordance with these Conditions where provision is made in the Order.

Services Specification: the specification for the Services as described in Schedule 3.

Software: any software used by the Supplier (or any of its sub-contractors) exclusively to provide the Services to the Customer whether owned by a third party (**Third Party Software**), by the Customer (**Customer Software**) or by the Supplier (**Supplier Software**).

Supplier: DATATECH UK LIMITED (Company number 05696509 – registered in England and Wales) whose registered office is situated at Prospect House, Fishing Line Road, Redditch, Worcestershire B97 6EW

Supplier Facility: has the meaning given in paragraph 5 of Schedule 3.

Supplier's Project Manager: the member of the Supplier's Account Team. The Supplier's Project Manager at the Commencement Date is named in Schedule 2.

Supplier Software: has the meaning given to that term in the definition of Software.

Supplier's System: the information and communications technology system to be used by the Supplier (or any of its sub-contractors) in performing the Services, including the Hardware and the Software.

Third Party Software: has the meaning given to that term in the definition of Software.

Virus: includes any malicious code, Trojan, worm and virus, lock, authorisation key or similar device that impairs or could impair the operation of the Software or the Services.

1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of these Conditions.

1.3 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

Managed Services Agreement

- 1.4 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.5 A reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- 1.6 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.7 Any phrase introduced by the words **including, includes, in particular** or **for example**, or any similar phrase, shall be construed as illustrative and shall not limit the generality of the related general words.
- 1.8 References to clauses are to the clauses of these Conditions. References to paragraphs are to paragraphs of the relevant Schedule.
- 1.9 References to the Schedules refer to the schedules annexed to the Order.
- 1.10 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.11 A reference to these Conditions includes the Order and the Schedules. If there is an inconsistency between any of the provisions in the main body of these Conditions, the Order and the Schedules, the provisions in the main body of these Conditions shall prevail.
- 1.12 The Schedules form part of these Conditions and shall have effect as if set out in full in the body of these Conditions. Any reference to these Conditions includes the Schedules.
- 1.13 Data subject, personal data and processing shall bear the meanings given to those terms respectively in the GDPR.
- 2. Basis of contract**
- 2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.
- 2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of the Order at which point and on which date the Contract shall come into existence (**Commencement Date**).

Managed Services Agreement

- 2.3 These Conditions apply to 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.
- 2.4 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of 20 Business Days from its date of issue.

3. Service provision

- 3.1 The Supplier shall provide the Services set out in the Order from the Commencement Date until expiry or termination of these Conditions for any reason.
- 3.2 The Service Level Arrangements shall apply with effect from the start of the first complete month occurring at least 30 days after the Commencement Date.
- 3.3 The Customer shall not store, distribute or transmit through the Services any material that:
- (a) is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;
 - (b) facilitates illegal activity;
 - (c) depicts sexually explicit images; and/or
 - (d) promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion, belief or gender reassignment, or any other illegal activity.
- 3.4 The Customer shall remain responsible for the use of the Services under its control, including any use by third parties (whether fraudulent or invited by the Customer).
- 3.5 The Customer must take reasonable measures to ensure it does not jeopardise services supplied to third parties on the same shared access infrastructure as notified to the Customer by the Supplier in writing. This includes informing the Supplier promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident, the Supplier shall work with the Customer to alleviate the situation as quickly as possible. The parties shall discuss and agree appropriate action (including suspending the Services).
- 3.6 The Customer shall not provide the Services directly or indirectly to third parties.
- 3.7 The Supplier reserves the right to:
- (a) modify the Supplier's System, its network, system configurations or routing configuration; or

Managed Services Agreement

- (b) modify or replace any Hardware or Software in its network or in equipment used to deliver any Service over its network,

provided that this has no adverse effect on the Supplier's obligations under these Conditions and its provision of the Services or the Service Level Arrangements. If such changes will have an adverse effect, the Supplier shall notify the Customer and the parties shall follow the Change Control Procedure.

4. Customer Data

4.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 4 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

4.2 The parties acknowledge that:

- (a) if the Supplier processes any personal data on the Customer's behalf when performing its obligations under these Conditions, the Customer is the data controller and the Supplier is the data processor for the purposes of the Data Protection Legislation (where **Data Controller** and **Data Processor** have the meanings as defined in the Data Protection Legislation).
- (b) the personal data may be transferred or stored outside the EEA or the country where the Customer is located in order to carry out the Services and the Supplier's other obligations under these Conditions.

4.3 Without prejudice to the generality of clause 4.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of these Conditions so that the Supplier may lawfully use, process and transfer the Personal Data in accordance with these Conditions on the Customer's behalf.

4.4 Without prejudice to the generality of clause 4.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under these Conditions:

- (a) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (**Applicable Laws**). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing

Managed Services Agreement

required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

- (b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
- (c) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Supplier, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
- (d) not transfer any Personal Data outside of the EEA unless the following conditions are fulfilled:
 - (i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

Managed Services Agreement

- (e) assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Customer without undue delay on becoming aware of a Personal Data breach;
 - (g) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - (h) maintain complete and accurate records and information to demonstrate its compliance with this clause 4.
- 4.5 The Customer consents to the Supplier appointing third party processors as the processor of Personal Data under these Conditions. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business. As between the Customer and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 4.
- 4.6 If under clause 4.5 the Supplier appoints a third party to process the Customer Personal Data, it shall notify the Customer of the intended change and give the Customer 5 Business Days to object to such appointment. If the Customer objects, the Supplier shall not appoint the third-party processor.
- 4.7 Either party may, at any time on not less than 30 days' notice, revise this clause 4 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to these Conditions).
- 4.8 The Supplier shall follow its archiving and security procedures for Customer Data, including those set out in clause 6 (Security) and as described in Schedule 3.
- 4.9 The Supplier shall promptly notify the Customer in writing of any actual or suspected loss or damage to the Customer Data. In the event of any loss or damage to Customer Data, the Customer's sole and exclusive remedy shall be for the Supplier to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest backup of such Customer Data to be maintained by the Supplier in accordance with the archiving procedure described in Schedule 3. The Supplier shall not be responsible for any loss, destruction, alteration or unauthorised access to or disclosure of Customer Data caused by any third party

Managed Services Agreement

(except those third parties sub-contracted by the Supplier to perform services related to Customer Data maintenance and back-up). This clause 4.9 is without prejudice to the generality of clause 4.1.

5. Supplier's obligations

- 5.1 The Supplier undertakes that the Services will be performed with all reasonable skill and care and the provisions of these Conditions that the Services will be provided substantially in accordance with the Services Specification.
- 5.2 The undertaking in clause 5.1 shall not apply to the extent of any non-conformance that is caused by use of the Services contrary to the Supplier's instructions.
- 5.3 If the Services do not conform with the undertaking in clause 5.1, the Supplier shall use all reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking in clause 5.1.
- 5.4 Notwithstanding the foregoing, the Supplier does not warrant that the Customer's use of the Services shall be uninterrupted or error-free.
- 5.5 These Conditions shall not prevent the Supplier from entering into similar agreements with third parties, or from independently developing, using, selling or licensing materials, products or services that are similar to those provided under these Conditions.

6. Security

- 6.1 The Supplier shall ensure that appropriate safety and security systems and procedures are maintained and enforced to prevent unauthorised access or damage to any and all Services, the Supplier's System and related networks or resources and the Customer Data.
- 6.2 The Supplier shall ensure that the Supplier's System is designed, maintained and upgraded at all times so as to minimise the risk of attack by Viruses. The parties agree that if Viruses are found, each of them shall co-operate with the other to reduce the effect of the Viruses and, particularly if Virus causes loss of operational efficiency or loss or corruption of Customer Data, assist each other to mitigate any losses and restore the Services to their original operating efficiency. The costs of complying with this clause 6.2 shall be apportioned between the parties on a pro rata basis according to fault.

Managed Services Agreement

- 6.3 The Customer shall promptly inform the Supplier if it suspects or uncovers any breach of security, and shall use all commercially reasonable endeavours to promptly remedy such breach.

7. Customer's obligations

The Customer shall:

- (a) provide the Supplier with:
 - (i) all necessary co-operation in relation to these Conditions; and
 - (ii) all necessary access to such information as may be reasonably required by the Supplier,

in order to provide the Services, including Customer Data, security access information, and (subject to providing any confidentiality undertakings reasonably required by the Customer) software interfaces to the Customer's other business applications;
- (b) appoint a Customer's Project Manager, who shall have the authority to contractually bind the Customer on all matters relating to these Conditions. The Customer shall use reasonable endeavours to ensure continuity of the Customer's Project Manager, but has the right to replace him from time to time where reasonably necessary in the interests of the Customer's business;
- (c) provide the Supplier with current emails and bank details to enable all payments to be made under this agreement;
- (d) in its discretion disclose its passwords and other security protocols to the Supplier to enable the Supplier to perform certain of the Services. Any passwords or security protocols are not retained due to security purposes.
- (e) change its system passwords on a regular basis;
- (f) save where the Supplier is providing back up services as part of the Services, to regularly back up its own data;
- (g) save where the Supplier is providing security services (including firewall) as part of the Services, to adequately secure its own data;
- (h) maintain the agreed levels of usage as set out in the Order. Any excess usage will be chargeable in addition to the Fees. Continued excess use may lead to the Customer's access to the Services being restricted or suspended.
- (i) replace, at its own expense, any of its equipment that irretrievably falls into disrepair, or is damaged howsoever caused, within 10 days;
- (j) insure all of its equipment held within the Supplier's premises;

Managed Services Agreement

- (k) comply with all applicable laws and regulations with respect to its activities under these Conditions; and
- (l) carry out all other Customer responsibilities set out in these Conditions or in any of the Schedules in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed by the parties, the Supplier may adjust any timetable or delivery schedule set out in these Conditions as reasonably necessary.

8. Committed Power

The Customer and the Supplier will comply in all material respects with the matters set out in 0 6.

9. Committed Transit

The Customer and the Supplier will comply in all material respects with the matters set out in Schedule 7.

10. Warranties

10.1 The Customer warrants, represents and undertakes that:

- (a) it has the full capacity and authority to enter into and perform these Conditions and that these Conditions is executed by a duly authorised representative of the Customer;
- (b) it has the authority to grant any rights to be granted to the Supplier under these Conditions, including the right to provide the Software and Hardware to the Supplier as indicated in these Conditions and for the same to be used in the provision of the Services and otherwise in connection with these Conditions;
- (c) it shall comply with and use the Services in accordance with the terms of these Conditions and all applicable laws, and shall not do any act that shall infringe the rights of any third party including the publishing or transmission of any materials contrary to relevant laws;
- (d) it owns or has obtained valid licences, consents, permissions and rights to use, and where necessary to license to the Supplier, any materials reasonably necessary for the fulfilment of all its obligations under these Conditions, including any third-party licences and consents in respect of any Customer Software; and
- (e) the Supplier's possession and use in accordance with these Conditions of any materials (including third-party materials supplied by the Customer to the Supplier)

Managed Services Agreement

shall not cause the Supplier to infringe the rights, including any Intellectual Property Rights, of any third party.

10.2 The Supplier warrants that:

- (a) it has the full capacity and authority to enter into and perform these Conditions;
- (b) it owns, or has obtained valid licences, consents, permissions and rights to enable the Supplier to comply with these Conditions and to use any of the Intellectual Property Rights necessary for the fulfilment of all its obligations under these Conditions including for the Customer's use and receipt of the Services, and the Supplier shall not breach the provisions of any such necessary licences, consents, permissions and rights or cause the same to be breached; and
- (c) it shall comply with all applicable laws and regulations in performing its obligations under these Conditions.

11. Charges and payment

11.1 The Customer shall pay the Supplier on demand all amounts and Fees for the Services at the published rates applicable from time to time.

11.2 Payments will be taken each month by way of direct debit on the 15th day of each month.

11.3 In the event the Customer does not agree to make payment of all amounts and Fees by way of direct debit, the Supplier will raise an invoice each month in respect of the Services and each invoice will be due and payable in full within 7 days of the date of that invoice. A monthly administration fee of £25.00 + VAT will be added to the Fees.

11.4 All amounts and Fees stated or referred to in these Conditions are exclusive of value added tax, which shall be added to the Supplier's invoice(s) at the appropriate rate.

11.5 If the Customer fails to make any payment due to the Supplier under these Conditions by the due date for payment, then, without limiting the Supplier's remedies under clause 18, the Customer shall pay interest on the overdue amount at the rate of 8% per annum above the Bank of England base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

12. Change control

12.1 If either party wishes to change the scope of the Services (including Customer requests for additional services), it shall submit details of the requested change to the other in writing.

Managed Services Agreement

- 12.2 If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
 - (b) any variations to the Fees arising from the change; and
 - (c) any other impact of the change on the terms of these Conditions.
- 12.3 If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it. If the Customer requests a change pursuant to clause 13, the Supplier shall not unreasonably withhold or delay consent to it.
- 12.4 If either party wishes the other party to proceed with the relevant change referred to in clause 12.3, the Supplier has no obligation to do so unless and until the parties have agreed in writing the necessary variations to its charges and any other relevant terms of these Conditions to take account of the change.

13. Continuous improvement

- 13.1 The Supplier may submit a report to the Customer from time to time identifying the emergence of new and evolving relevant technologies or process changes in the IT, telecommunications or data centre field relevant to the Services. Such report shall be provided in sufficient detail to enable the Customer to evaluate properly the benefits of the new technology or process.
- 13.2 If the Customer wishes to incorporate any improvement identified by the Supplier under clause 13.1, the Customer shall send the Supplier a change request for consideration in accordance with clause 12.

14. Proprietary rights

Nothing in these Conditions affects either party's rights in pre-existing Intellectual Property Rights (including pre-existing Intellectual Property Rights of either party contained in or relating to Confidential Information) (**Pre-Existing IPR**).

- 14.1 The Supplier acknowledges and agrees that the Customer owns and retains all rights, title and interest in and to the Customer Data. The Supplier shall have no rights to access, use or modify the Customer Data unless it has the prior written consent of the Customer.
- 14.2 The Customer grants to the Supplier a revocable, sub-licensable, non-transferable, non-exclusive, royalty-free, worldwide limited licence for the term of these Conditions to use, exploit, copy, reproduce, manufacture, sub-license, modify, improve, enhance and make

Managed Services Agreement

derivative works of the Customer's Intellectual Property Rights solely to the extent necessary to enable the Supplier to comply with its obligations under these Conditions.

15. Domain names

- 15.1 If the Customer instructs the Supplier to obtain a domain name for the Customer, the Supplier shall act as an agent for the Customer in dealing with the relevant domain name registration authority. The contract for the domain name shall be between the Customer and the relevant domain name registration authority and the Customer agrees that it shall be solely responsible for renewals, and for legal, technical, administrative, billing or other requirements imposed by the relevant domain name registration authority (and relevant costs and expenses thereof).
- 15.2 The Supplier gives no warranty that the domain name requested shall not infringe the rights of any third party and all such enquiries shall be the responsibility of the Customer. The domain name shall form part of the Customer's Intellectual Property Rights for the purposes of these Conditions.
- 15.3 If the Supplier licenses to the Customer an IP address as part of the Services, such IP address shall (to the extent permitted by law) revert to the Supplier after expiry or termination of these Conditions for any reason, whereupon the Customer shall cease using the address. At any time after such expiry or termination, the Supplier may re-assign the address to another user.

16. Confidentiality

- 16.1 The provisions of this clause 16 shall not apply to any Confidential Information that:
- (a) is or becomes generally freely available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause 16);
 - (b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - (c) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
 - (d) was known to the receiving party before the information was disclosed to it by the disclosing party; or
 - (e) the parties agree in writing is not confidential or may be disclosed.

Managed Services Agreement

- 16.2 Each party shall keep the other party's Confidential Information confidential and shall not:
- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under these Conditions (**Permitted Purpose**); or
 - (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause 16.
- 16.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its Representatives in violation of the terms of these Conditions.
- 16.4 The Customer:
- (a) acknowledges and agrees that the Supplier's Confidential Information includes any designs, plans, software or other materials created by the Supplier in connection with the Services; and
 - (b) agrees not to make use of any such designs, plans, software or other materials for any purpose other than receipt of the Services.
- 16.5 The Supplier acknowledges and agrees that the Customer Data is the Confidential Information of the Customer.
- 16.6 A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
- (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - (b) at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause 16.
- 16.7 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority (including any relevant securities exchange) or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this clause 16.7, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- 16.8 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in these Conditions are granted to the other party or to be implied from these Conditions.

Managed Services Agreement

16.9 The provisions of this clause 16 shall continue to apply after expiry or termination of these Conditions for any reason.

17. Limitation of liability

17.1 This clause 17 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of these Conditions;
- (b) any use made by the Customer of the Services; and
- (c) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with these Conditions.

17.2 Except as expressly provided in these Conditions:

- (a) the Customer assumes sole responsibility for results obtained from the use of the Services, and for conclusions drawn from such use. The Supplier shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to the Supplier by the Customer in connection with the Services, or any actions taken by the Supplier at the Customer's direction; and
- (b) all warranties, conditions and other terms implied by statute, common law or otherwise are, to the fullest extent permitted by law, excluded from these Conditions.

17.3 Nothing in these Conditions excludes or limits the liability of the Supplier for:

- (a) death or personal injury caused by the Supplier's negligence;
- (b) fraud or fraudulent misrepresentation; or
- (c) any other liability which cannot lawfully be excluded or limited.

17.4 The Service Level Arrangements state the Customer's full and exclusive right and remedy, and the Supplier's only obligation and liability, in respect of the performance and availability of the Services, or their non-performance and non-availability.

17.5 Subject to clause 17.3 and clause 17.4:

- (a) the Supplier shall not be liable whether in contract, tort (including for negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise for any loss of profits, loss of business, depletion of goodwill

Managed Services Agreement

or similar losses, or for any indirect or consequential loss, costs, damages, charges or expenses however arising; and

- (b) the Supplier's total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of these Conditions shall be limited to the price paid for the Services during the 12 months preceding the date on which the claim arose.

18. Term and termination

18.1 These Conditions shall commence on the Commencement Date. Unless terminated earlier in accordance with this clause 18, these Conditions remain in force for the Initial Term and thereafter shall continue until either party gives not less than 30 days written notice to the other party, to terminate these Conditions. For the avoidance of doubt, no notice to terminate shall be given during the Initial Term.

18.2 Without prejudice to any rights that have accrued under these Conditions or any of its rights or remedies, the Customer may terminate these Conditions on giving not less than 120 days' written notice to the Supplier, provided that on any such termination it shall, without prejudice to any accrued rights or obligations as at that time, be obliged to pay termination compensation to the Supplier (**'Termination Compensation'**) calculated as the balance of all Fees due under the Contract, calculated from the date of the Customer's written notice to terminate under this clause 18.2 until the end of the Initial Term.

18.3 Without prejudice to any other right or remedy available to it the Supplier may terminate these Conditions with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under these Conditions on the due date for payment and remains in default not less than 7 days after being notified in writing to make such payment;
- (b) the Customer commits a material breach of any term of these Conditions and (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
- (c) the Customer breaches any of the terms of clause 16;
- (d) the Customer 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 is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (e) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any

Managed Services Agreement

compromise or arrangement with its creditors other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;

- (f) a petition is filed, a notice is given, a resolution is passed, or an order is made for or in connection with the winding up of that Customer other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (g) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given, or an administrator is appointed, over the Customer;
- (h) the holder of a qualifying floating charge over any of the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over any of the assets of the Customer or a receiver is appointed over any of the assets of the Customer;
- (j) a creditor or encumbrancer of the Customer 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 the Customer's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.3(d) to clause 18.3(i) (inclusive);
- (l) the Customer suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (m) there is a change of control of the Customer (within the meaning of section 1124 of the Corporation Tax Act 2010).

18.4 The party not affected by a continuing Force Majeure Event may terminate these Conditions in accordance with clause 19.1.

18.5 Any provision of these Conditions which expressly or by implication is intended to come into or continue in force on or after expiry or termination of these Conditions shall remain in full force and effect.

18.6 Expiry or termination of these Conditions for any reason shall not affect the accrued rights, remedies, obligations or liabilities of the parties existing at expiry or termination.

18.7 On expiry or termination of these Conditions for any reason:

Managed Services Agreement

- (a) the Supplier shall immediately cease provision of the Services;
- (b) (subject to clause 18.8) each party shall return and make no further use of any equipment, property, materials and other items (and all copies of them) belonging to the other party and the Customer shall cease to use any IP address licensed to the Customer by the Supplier pursuant to clause 15.3; and
- (c) if the Supplier receives, no later than ten days after the Commencement Date of the expiry or termination of these Conditions for any reason, a written request for the delivery to the Customer of the most recent backup of the Customer Data, the Supplier shall use reasonable commercial endeavours to deliver the backup to the Customer within 30 days of its receipt of such a written request in the format stored or in a format as otherwise reasonably requested by the Customer, provided that the Customer has at that time paid all fees and charges outstanding at (and including any resulting from) expiry or termination (whether or not due at the date of expiry or termination). Once such ten-day period has expired or the Supplier has, at the Customer's request, delivered to the Customer the most recent backup of the Customer Data (as applicable), the Supplier shall (subject to clause 18.8) promptly expunge from the Supplier's System and otherwise destroy or dispose of all of the Customer Data in its possession or control. The Customer shall pay all reasonable costs and expenses incurred by the Supplier in returning and disposing of Customer Data and expunging it from the Supplier's System.

18.8 If a party is required by any law, regulation, or government or regulatory body (**Regulatory Requirement**) to retain any documents or materials which it would otherwise be obliged to return or destroy under clause 18.7(c), it shall notify the other party in writing of such retention, giving details of the documents or materials that it must retain. Clause 16 shall continue to apply to any such retained documents and materials for as long as any such requirement continues in force, subject to any disclosure mandated by any Regulatory Requirement.

19. Force majeure

19.1 Neither party shall have any liability to the other under these Conditions if it is prevented from, or delayed in, performing its obligations under these Conditions, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, except to the extent that it could reasonably have avoided such circumstances by (in the case of the Supplier) exercising the level of diligence that could reasonably have been expected of it including strikes, lock-outs or other industrial disputes (including any industrial disputes involving the workforce of the Supplier), act of God, war, riot, civil commotion, compliance with any law or regulation, fire, flood or storm (each a **Force Majeure Event**), provided that:

- (a) the other party is notified of such an event and its expected duration; and

Managed Services Agreement

- (b) it uses all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned,

and that if the period of delay or non-performance continues for three months or more, the party not affected may terminate these Conditions by giving not less than 14 days' written notice to the other party.

- 19.2 If the Force Majeure Event results in the suspension of all or any part of the Services, then the Customer shall not be obliged to pay the relevant Fees until such time as the Force Majeure Event shall have ceased to have effect and the Services recommence in accordance with these Conditions.

20. Waiver

No failure or delay by a party to exercise any right or remedy provided under these Conditions or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall preclude or restrict the further exercise of that or any other right or remedy.

21. Severance

- 21.1 If any provision or part-provision of these Conditions is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of these Conditions.

- 21.2 If any provision or part-provision of these Conditions is deemed deleted under clause 21.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

22. Entire agreement and variation

- 22.1 These Conditions constitutes the entire agreement between the parties and supersedes all previous discussions, correspondence, negotiations, arrangements, understandings and agreements between them relating to its subject matter.

- 22.2 Each party acknowledges that in entering into these Conditions it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in these Conditions. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in these Conditions.

Managed Services Agreement

22.3 No variation of these Conditions shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

23. Assignment

23.1 The Supplier may at any time assign, transfer, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with all or any of its rights and obligations under these Conditions without the consent of the Customer.

23.2 The Customer shall not, without the prior written consent of the Supplier, assign, transfer, mortgage, charge, sub-contract, delegate, declare a trust over or deal in any other manner with any of its rights or obligations under these Conditions.

24. No partnership or agency

24.1 Nothing in these Conditions is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, or (except as expressly provided in clause 15) constitute any party the agent of another party nor authorise any party to make or enter into any commitments for or on behalf of any other party.

24.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

25. Third party rights

Except as expressly provided elsewhere in these Conditions, no one other than a party to these Conditions, its successors and permitted assignees, shall have any right to enforce any of its terms.

26. Rights and remedies

Except as expressly provided in these Conditions, the rights and remedies provided under these Conditions are in addition to, and not exclusive of, any rights or remedies provided by law.

27. Notices

27.1 Any notice to terminate given by the Customer under clause 18.1 or clause 18.2 of these Conditions shall be in writing and shall be delivered by hand or by pre-paid first class post or other next Business Day delivery service at its registered office or by e-mail.

27.2 Any notice to terminate given by the Customer under clause 18.1 or clause 18.2 of these Conditions shall only be effective when the Supplier acknowledges in writing to the Customer receipt of the notice to terminate and confirms the actual date of termination.

Managed Services Agreement

- 27.3 Any other notice required to be given to a party under or in connection with these Conditions shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office.
- 27.4 Any other notice shall be deemed to have been received:
- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
 - (b) if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- 27.5 This clause 27 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.
- 27.6 For the purposes of clauses 27.3, 27.4 and 27.5 of these Conditions, "writing" shall not include e-mail or fax transmission.
- 28. Dispute resolution**
- 28.1 If a dispute arises under or in connection with these Conditions (**Dispute**), including any Dispute arising out of any amount due to a party, then before bringing any legal proceedings or commencing any other alternative dispute resolution procedure in connection with such Dispute, a party must first give written notice (**Dispute Notice**) of the Dispute to the other party describing the Dispute and requesting that it is resolved under the dispute resolution procedure described in this clause 28.
- 28.2 If the parties are unable to resolve the Dispute within 30 days of delivery of the Dispute Notice, each party shall promptly (and in any event within five Business Days):
- (a) appoint a representative who has authority to settle the Dispute and is at a higher management level than the person with direct responsibility for the administration of these Conditions (**Designated Representative**); and
 - (b) notify the other party of the name and contact information of its Designated Representative.
- 28.3 Acting reasonably and in good faith the Designated Representatives shall discuss and negotiate to resolve the Dispute, including agreeing the format and frequency for such discussions and negotiations, provided that all reasonable requests for relevant information relating to the Dispute made by one party to the other party shall be complied with as soon as reasonably practicable).

Managed Services Agreement

28.4 If the parties are unable to resolve the Dispute within 30 days after the appointment of both Designated Representatives, either party may proceed with any other available remedy.

28.5 Notwithstanding any other provision of these Conditions, a party may seek interim or other equitable relief necessary (including an injunction) where damages would be an inadequate remedy.

29. Governing law and jurisdiction

29.1 These Conditions and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

29.2 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with these Conditions or its subject matter or formation (including non-contractual disputes or claims).



Managed Services Agreement

Schedule 1 Fees

Monthly Fee

£

payable in arrears **OR** advance (Please indicate).

Schedule 2 Personnel

1. Supplier

1.1 Supplier Account Team:

Account manager	
Account representative	
Account representative	

1.2 Supplier's Project Manager:

2. Customer

2.1 Customer Account Team:

Executive sponsor	
Project representative	
Project representative	

2.2 Customer's Project Manager:

2.3 Customer support representatives:

Schedule 3 Services Specification

3. Installation and configuration

The Supplier shall procure, install and configure equipment for use to provide the Services. This includes:

- Rack mounting of servers and related equipment;
- Installation of system and database software components;
- Configuration of clustering and cross-connects;
- Installation of the Software and loading of initial Customer Data.

4. Internet connectivity

4.1 The Supplier shall provide internet connectivity to the Customer. The connectivity shall include:

- Multiple, diversely routed high-speed connections;
- Firewall for security;
- A load balancer for traffic management and speed optimisation.

4.2 The Supplier shall supply burstable bandwidth connectivity services. The connectivity shall include:

- Multiple connections;
- A network operations centre that monitors servers;
- The network platform;
- Internet access.

5. Security services

The Supplier shall provide security services as follows:

- (a) access to a dedicated hosting facility (**Supplier Facility**) shall be limited to the authorised Supplier and contracted third-party personnel;

Managed Services Agreement

- (b) the Supplier Facility shall be monitored 24 hours a day, seven days a week, through closed-circuit video surveillance and shall require identification for access; and
- (c) data access security shall be provided through managed firewall services with security on all web pages, a private network path for administration and SNMP monitoring, and fully hardened servers.

6. Monitoring services

The Supplier shall provide, 24 hours a day and seven days a week, monitoring of the computing, operating and networking infrastructure to detect and correct abnormalities. This includes environmental monitoring, network monitoring, load-balancing monitoring, web server and database monitoring, firewall monitoring and intrusion detection.

7. Backup, archiving and recovery services

The Supplier shall:

- Develop the backup schedule;
- Perform scheduled backups;
- Provide routine and emergency data recovery;
- Manage the archiving process.

The backup schedule shall include at least weekly full backups and daily incremental backups. In the event of data loss, the Supplier shall provide recovery services to try to restore the most recent backup.

8. Cloud hosting services

The Supplier shall provide cloud based services. These will include:

- Email hosting;
- Website hosting;
- Online file storage;
- Virtual desktop;



Managed Services Agreement

- Anti-virus and anti-spam software.

9. Release management and change control

The Supplier shall provide release management and change control services to ensure that versions of servers, network devices, storage, operating system software and utility and application software are audited and logged, and that new releases, patch releases and other new versions are implemented as deemed necessary by the Supplier to maintain the Services.

10. Administration services

These services include the installation and administration of additional Hardware, operating systems and other software, and other resources as necessary to maintain the Services.

Schedule 4 Maintenance and support

11. Maintenance Events

- 11.1 Maintenance work that may require interruption of the Services (**Maintenance Events**) shall not normally be performed during Normal Business Hours. The Supplier may interrupt the Services outside Normal Business Hours for maintenance provided that it has given the Customer at least three days' advance written notice (including service by e-mail).
- 11.2 Any Maintenance Events that occur during Normal Business Hours, or that occur with less notice than required by paragraph 11.1, and which were not requested by the Customer, shall be considered downtime for the purpose of service availability measurement. The Supplier shall at all times endeavour to keep any service interruptions to a minimum.

12. Technical support services

- 12.1 Should the Customer determine that the Services include a defect, the Customer support representatives in paragraph 2.3 of Schedule 2 (**CSRs**) may file error reports or support requests. The Supplier shall provide technical support services only to CSRs.
- 12.2 The Supplier shall accept voicemail, e-mail and web form-based incident submittal from CSRs 24 hours a day, seven days a week. The Supplier shall accept telephone calls for English language telephone support during Normal Business Hours. The Supplier shall use reasonable endeavours to process support requests, issue trouble ticket tracking numbers if necessary, determine the source of the problem and respond to the Customer. The Supplier shall use reasonable endeavours to respond to and resolve all support requests from CSRs within the time periods specified below, according to priority.
- 12.3 The Supplier shall determine the priority of any incident in accordance with the following table.

Priority	Description	Response time	Target resolution time
Priority 1	The entire Services are completely inaccessible. Priority 1 incidents shall be reported by telephone only.	Within two Normal Business Hours.	Four Normal Business Hours. Continuous effort after initial response and with Customer co-operation.
Priority 2	Operation of the Services is severely degraded, or major	Within four Normal Business Hours.	Within two Business Days after initial

Managed Services Agreement

	components of the Services are not operational and work cannot reasonably continue. Priority 2 incidents shall be reported by telephone only.		response.
Priority 3	Certain non-essential features of the Services are impaired while most major components of the Services remain functional.	Within 12 Normal Business Hours.	Within seven Business Days after initial response.
Priority 4	Errors that are non-disabling or cosmetic and clearly have little or no impact on the normal operation of the Services.	Within 24 Normal Business Hours.	When reasonably possible.

12.4 If a Priority 1 or Priority 2 incident has not been resolved within the target resolution time, the incident shall be escalated to Director level.

Schedule 5 Service Level Arrangements

13. Service availability

13.1 The Supplier shall provide at least a 99.5% uptime service availability level (**Uptime Service Level**).

13.2 The Services shall be considered as unavailable only:

- (a) during periods of Priority 1 or Priority 2 incidents in accordance with paragraph 12.3 of 0 4; and
- (b) during periods of unplanned Maintenance in accordance with paragraph 11.2 of Schedule 4.

13.3 For the avoidance of doubt, the Services shall not be considered as "unavailable" during Maintenance Events as described in paragraph 11.1 of 0 4, Customer-caused outages or disruptions, or outages or disruptions attributable in whole or in part to Force Majeure Events within the meaning of clause 19.

Schedule 6 Committed Power

Power sharing between Racks within the Data Centre is **NOT** permitted under any circumstances and will be deemed to be a breach of these Terms and Conditions if it is found that power sharing has been set up.

All Clients can increase / decrease the agreed commitment on the committed power usage **SUBJECT TO** the conditions outlined below. This can be done only after a request in writing by the Client's authorised signatory has been made to and agreed by Datatech UK Ltd. Email requests from the Client's authorised signatory will be accepted as a written request.

a) Increase in Committed Power

Requests for an increase in committed power levels will be considered at any time during the term of the Agreement between Company and the Client.

Any agreed increase in the committed power usage will continue in force as the new monthly agreed commitment level until this Agreement is terminated.

b) Decrease in Committed Power

Requests for a decrease in the committed power level will **NOT** be considered until after the completion of the "initial" contract term as detailed in the signed Quotation[s] for Products / Services.

Therefore requests for a decrease in the committed power level will only be considered after the completion of the "initial" contract term

Any agreed decrease in the committed power will constitute a change to the terms of this agreement and will require the Client to formally sign a new Quotation[s] for Products / Services based upon the following terms:

- i. the new committed power level will be for a minimum three-month term.
- ii. any request for a further decrease will only be considered by the Company after the initial three-month period has been completed and upon the Client giving the required written notice as stated in the new Quotation[s] for Products / Services and signed by an authorised signatory.



Managed Services Agreement

- iii. at the Company's absolute discretion they may request the Client to pay a decrease charge equal to 50% of the monthly charge of the difference between the current committed power level and the new requested decreased committed power level based on a three-month period.

Any agreed decrease in the committed power will continue in force as the new monthly commitment until this Agreement is terminated.

All changes in agreement will commence after the next billing cycle.

Schedule 7 Committed Transit

Committed transit is based on a per rack basis.

All Clients can increase / decrease the agreed commitment on the committed transit **SUBJECT TO** the conditions outlined below. This can be done only after a request in writing by the Client's authorised signatory has been made to and agreed by Datatech UK Ltd. Email requests from the Client's authorised signatory will be accepted as a written request.

a) Increase in Committed Transit

Any agreed increase in the committed transit usage will continue in force as the new monthly commitment until this Agreement is terminated.

b) Decrease in Committed Transit

Requests for a decrease in the committed transit level will **NOT** be considered until after the completion of the "initial" contract term as detailed in the signed Quotation[s] for Products / Services.

Therefore requests for a decrease in the committed transit level will only be considered after the completion of the "initial" contract term

Any agreed decrease in the committed transit will constitute a change to the terms of this agreement and will require the Client to formally sign a new Quotation[s] for Products / Services based upon the following terms

- i. the new committed transit level will be for a minimum three-month term.
- ii. any request for a further decrease will only be considered by the Company after the initial three-month period has been completed and upon the Client giving the required written notice as stated in the new Quotation[s] for Products / Services and signed by an authorised signatory.
- iii. at the Company's absolute discretion they may request the Client to pay a decrease charge equal to 50% of the monthly charge of the difference between the current committed transit level and the new requested decreased committed transit level based on a three-month period.

Any agreed decrease in the committed transit will continue in force as the new monthly commitment until this Agreement is terminated.

All changes in agreement will commence after the next billing cycle.