# Terms and Conditions for IT Services & Support

## 1. INTERPRETATION

1.1 The definitions and rules of interpretation in this clause apply in these terms and conditions.

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|---|---|
| **Client's Equipment:** | any equipment, systems, software, cabling or facilities owned by the Client or owned by a third party and used by the Client under hire, licence or other arrangement for which the Services will be supplied, as identified by the hardware and software audit carried out by London Systems prior to entering into this agreement, except (i) any equipment, systems, cabling or facilities excluded from the Services as set out in the Master Schedule and (ii) any equipment, systems, cabling or facilities which were not identified by the hardware and software audit and which have not been notified to London Systems pursuant to condition 8. |
| **Contract:** | the Client's purchase order and acceptance of it by London Systems under condition 3. |
| **Client:** | the person, firm or company who purchases Services from London Systems. |
| **Intellectual Property Rights:** | patents, rights to inventions, copyright and related rights, trade marks, 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 rights, 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 applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world. |
| **Hosted Services:** | the hosted support services as described in the Master Schedule. |
| **Location:** | the location(s) at which the Services will be provided as set out on the Master Schedule. |
| **London Systems:** | London Systems UK Limited, a company registered in England and Wales with company number 06580086. |
| **Master Schedule:** | the schedule to this agreement setting out the Services, Locations, number of users supported and detailing the hardware and software which will not be supported by the Services. |
| **Preliminary Assessments:** | the system audit carried out to assess the level of Services required and the price for the Services. |
| **Project:** | the project as described in the Master Schedule. |
| **Services:** | the services to be provided by London Systems under the Contract as set out in the Master Schedule, including the Preliminary Assessments. |
| **Data Controller, Data Processor, Data Subject and Personal Data:** | all have the meaning given to those terms in the applicable Data Protection Legislation (and related terms such as "process", "processed" and "processing" have corresponding meanings). |
| **Data Protection Legislation:** | means all applicable laws and any rules and guidance issued by relevant Supervisory Authorities relating to data protection and the processing of personal data and privacy including, as may be amended from time to time, the General Data Protection Regulation (EU) 2016/679 (GDPR), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (ePrivacy Regulations) and any legislation that, in respect of the United Kingdom, replaces or converts into domestic law the GDPR, the ePrivacy Regulations or any other law relating to the processing of personal data and privacy. |
| **Security Incident:** | means unauthorised acquisition, access, use or disclosure of Client Personal Data. |
| **Sub Processor:** | means another Data Processor engaged by London Systems for carrying out processing activities in respect of the Personal Data on behalf of London Systems. |
| **Supervisory Authorities:** | means the Information Commissioner's Office, the Financial Conduct Authority or such other supervisory authority as may be responsible for enforcing compliance of Data Protection Legislation from time to time. |
| **VAT:** | value added tax chargeable under English law for the time being and any similar additional tax. |

1.2 Condition, schedule and paragraph headings shall not affect the interpretation of these conditions.

1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.4 The schedules form part of this agreement and shall have effect as if set out in full in the body of these conditions and any reference to the Contract includes the schedules.

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

1.6 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.

1.7 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.8 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.

1.9 A reference to **writing** or **written** includes faxes and e-mail.

1.10 Where the words **include(s), including** or **in particular** are used in these terms and conditions, they are deemed to have the words **without limitation** following them and where the context permits, the words **other** and **otherwise** are illustrative and shall not limit the sense of the words preceding them.

1.11 Any obligation in this agreement on a person not to do something includes an obligation not to agree, allow, permit or acquiesce in that thing being done.

1.12 References to clauses and Schedules are to the clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule.

## 2. APPLICATION OF CONDITIONS

2.1 These conditions shall:

2.1.1 apply to and be incorporated in the Contract; and

2.1.2 prevail over any inconsistent terms or conditions contained in, or referred to in, the Client's purchase order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.

2.2 Subject to conditions 8 and 9.4, no addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on London Systems unless in writing and signed by a duly authorised representative of London Systems.

## 3. EFFECT OF PURCHASE ORDER

The Client's purchase order constitutes an offer by the Client to purchase the Services specified in it on these conditions; accordingly, the execution and return of the acknowledgement copy of the purchase order form by London Systems, or commencement or execution of work by London Systems pursuant to the purchase order, shall establish a contract for the supply and purchase of those Services on these conditions. The Client's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order shall not govern the Contract. These conditions and the Master Schedule shall together form the Contract.

## 4. TERM

4.1 The Services supplied under the Contract shall commence at the time and date set out in the Master Schedule and shall continue to be supplied:

4.1.1 In the case of Technical Support Services, Hosted Services and Maintenance Services, for an initial term as set out in the Master Schedule (**Initial Term**) during which the Client may not terminate the Contract and, after the Initial Term, shall continue to be supplied for further successive periods of the same length as the Initial Term (**Renewal Terms**) unless terminated by one of the parties giving to the other not less than 3 month's notice, such notice to expire at the end of the Initial Term or at the end of any subsequent Renewal Term, unless this agreement is terminated in accordance with clause 15; or

4.1.2 In the case of project management or any other Services, until the Services are completed in accordance with the Master Schedule and the specification of the Services provided in writing by London Systems.

## 5. LONDON SYSTEMS' OBLIGATIONS

5.1 London Systems shall use reasonable endeavours to provide the Services at the Location for the Client's Equipment, in accordance in all material respects with the Master Schedule.

5.2 London Systems shall use reasonable endeavours to meet the performance dates specified in the Master Schedule, but any such dates shall be estimates only and time shall not be of the essence of the Contract.

5.3 The Client accepts that it is technically impracticable to provide the Services entirely free of faults and London Systems does not undertake to do so.

5.4 London Systems shall use all reasonable endeavours to observe all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Client's premises and that have been communication to it under condition 7.1.6, provided that it shall not be liable under these conditions if, as a result of such observation, it is in breach of any of its obligations under the Contract.

5.5 London Systems may suspend the Hosted Services or any part thereof, without liability to the Client, if its subcontracted network communications provider suspends the subcontracted service, upon reasonable notice (except in an emergency or pursuant to condition 5.5.4):

5.5.1 in an emergency to provide or safeguard a service to a hospital or other emergency organisation or any other essential services;

5.5.2 temporarily to vary the technical specification of the subcontracted service or for repair, maintenance or improvement or to protect life, limb or property;

5.5.3 take any other action necessary in the subcontracted service provider's reasonable opinion to comply with instructions issued by the government, a regulatory authority, an emergency service or other competent authority; or

5.5.4 if the subcontracted service provider suspects on reasonable grounds that the Client may have committed or may be committing any fraud against it,

provided that, if the suspension arises from the Client's default, the Client shall continue to pay the charges during such suspension and shall pay the costs and expenses reasonably incurred by London Systems and its subcontractors in respect of the suspension and any recommencement (which recommencement shall be at the sole and absolute discretion of London Systems) of the Hosted Services.

5.6 London Systems will keep what it believes to be an adequate stock of spare parts but cannot warrant that spare parts will always be immediately available. The supplier shall use reasonable endeavours to supply all spare parts but, subject to condition 12, shall not be liable or in default for any delay performing any of its obligations under the Contract due to any delay or failure on the part of its suppliers of parts.

5.7 London Systems shall take all reasonable steps to ensure that its staff and agents engaged in the provision of the Services are fit and proper for the performance of its obligations under this Agreement by making appropriate background checks, to include credit reference checks, identity checks and taking up references from previous employers, and by monitoring of staff and agents to ensure they are behaving appropriately and in accordance with both the policies and procedures in place at London Systems and the obligations of London Systems under this Agreement.

5.8 London Systems shall ensure that all of its staff and agents engaged in the provision of the Services have received, and continue to receive, appropriate training in respect of the privacy and data protection laws applicable to the provision of the Services as may be in force in the United Kingdom from time to time.

## 6. SERVICE EXCLUSIONS OR LIMITATIONS

6.1 **All Services:** No warranty or representation is given by London Systems that London Systems will be able to assist the Client in achieving any speeds or results from any equipment or software which are not technically feasible.

6.2 **Support Services:** London Systems shall be entitled to refuse to provide the Services, to the following extent:

6.2.1 Not to provide support Services for software forming part of the Client's Equipment if malfunctions are due to incorrect use of the software or for any reason external to the software, including failure or fluctuation of electrical supplies, accidents or natural disasters; or

6.2.2 If the following circumstances occur and London Systems gives to the Client 4 weeks' prior notice in writing of its intention to cease providing the Services, stating its reasons and makes a repayment to the Client calculated in accordance with condition 6.5:

(a) If, in the reasonable opinion of London Systems, the Client's computer system has ceased to be capable of running the software forming part of the Client's Equipment; or

(b) If, in the reasonable opinion of London Systems, the Client's computer system requires tuning in order to facilitate the proper functioning and performance of the software forming part of the Client's Equipment and the tuning is the responsibility of a third party

provided that the parties shall use their respective reasonable endeavours to negotiate in good faith to resolve the issue within the notice period.

6.3 **Maintenance Services:** The maintenance Services do not include the following:

6.3.1 Service in respect of defects or errors resulting from any modifications or enhancements to the Client's Equipment or operating environment not made by London Systems or made without the prior written consent of London Systems. In such circumstances, London Systems reserves the right, at its sole discretion, to charge for such service in accordance with condition 9.5.

6.3.2 Repair of Client's Equipment if malfunctions are due to incorrect use of the Client's Equipment, or for any reason external to the Equipment including failure or fluctuation of electrical supplies, accidents or natural disasters.

6.3.3 The supply of consumables.

6.3.4 Support Services in respect of Client's Equipment from the next renewal date of the Contract if the Client is not using the versions of the operating system software as specified by London Systems from time to time, unless specifically agreed in advance with London Systems.

6.3.5 Maintenance Services if the following circumstances occur and London Systems gives to the Client 4 weeks' prior notice in writing of its intention to cease providing the Services, stating its reasons and makes a repayment to the Client calculated in accordance with condition 6.5:

(a) If, in the reasonable opinion of London Systems, the Client's Equipment has ceased to be capable of operating normally for any reason; or

(b) If, in the reasonable opinion of London Systems, the Client's computer system requires tuning in order to facilitate the proper functioning and performance of the software forming part of the Client's Equipment and the tuning is the responsibility of a third party,

provided that the parties shall use their respective reasonable endeavours to negotiate in good faith to resolve the issue within the notice period.

6.4 Parts:

6.4.1 When identical spare parts are fitted, the parts replaced shall become the property of London Systems unless otherwise agreed in writing by the parties.

6.4.2 At the option of London Systems, London Systems may replace any item of Client's Equipment with one of a higher specification provided that:

(a) It is possible to run on the replacement Client's Equipment all programs, features and utilities which the replaced Client's Equipment was capable of running with no noticeable degradation of performance; and

(b) London Systems retains the right to remove the higher specification Client's Equipment and replace it with working equipment that is identical to the original replaced Client's Equipment and condition 6.4.1 applies.

6.5 Rebate for Service Exclusions

The repayment due to the Client under conditions 6.2.2 or 6.3.5 for the period during which London Systems did not provide the Services shall be the value of the unexpired part of the applicable charge that has been paid in advance, on a pro rata basis. For the avoidance of doubt, the rebate does not apply when the Services cease only in respect of part of the Client's Equipment or software.

# 7. CLIENT'S OBLIGATIONS

7.1 The Client shall:

7.1.1 co-operate with London Systems in all matters relating to the Services, including complying with the expectations of London Systems as set out in writing by London Systems and complying with the reasonable instructions of London Systems;

7.1.2 at the request of London Systems, nominate up to 2 contacts authorised to request Services and inform London Systems of the details of the authorised contacts;

7.1.3 ensure that each authorised contact shall keep a secure password for his/her use of the Services, that such password shall be changed no less frequently than every 3 months and that each authorised contact shall keep his/her password confidential;

7.1.4 change or disable the password of any individual who ceases to be an authorised contact and inform London Systems;

7.1.5 provide, or procure at its own expense, for London Systems, its agents, sub-contractors and employees, in a timely manner and at no charge to London Systems, such access to the Client's premises and data, and such office accommodation and other facilities, as is requested by London Systems;

7.1.6 inform London Systems of all health and safety rules and regulations and any other reasonable security requirements that apply at any of the Location(s);

7.1.7 ensure that all Client's Equipment is in good working order and suitable for the purposes for which it is used and conforms to all relevant United Kingdom standards or requirements and the reasonable instructions of London Systems;

7.1.8 use the Client's Equipment correctly and in accordance with any manufacturer or user instructions;

7.1.9 ensure that all licences authorising the Client's use of the Client's Equipment are in effect throughout the term of the Contract

7.1.10 ensure the security of access to the Client's Equipment, the integrity of information stored thereon and security from corruption, change and abuse of such Client's Equipment and information by others;

7.1.11 take all necessary steps to back up and secure the Client's information and data;

7.1.12 to enable the support personnel of London Systems to perform remote diagnostic and remedial work, ensure that the Client's Equipment includes industry standard remote access facilities, which could include simple web access, complying with directions from London Systems from time to time. If such facilities are not available London Systems reserves the right to submit an additional fee, plus expenses, in respect of maintenance and consultancy work which reflects the increased work to be carried out by London Systems;

7.1.13 take note of all procedures and risks identified during the Preliminary Assessments and observe all such procedures and take all such actions as are necessary to eliminate, reduce or minimise such risks;

7.1.14 provide in a timely manner such information as London Systems may request, and ensure that such information is accurate in all material respects; and

7.1.15 be responsible (at its own cost) for preparing the relevant premises for the supply of the Services.

7.2 If the performance by London Systems of its obligations under the Contract is prevented or delayed by any act or omission of the Client or the Client's agents, sub-contractors or employees, the Client shall in all circumstances be liable to pay to London Systems on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere), subject to London Systems confirming such costs, charges and losses to the Client in writing.

7.3 London Systems reserves the right to withdraw support for any software forming part of the Client's Equipment with effect from the next renewal date of the Contract if the Client is not using the versions of the operating system specified by London Systems.

7.4 The Client shall not, without the prior written consent of London Systems, at any time from the date of the Contract to the expiry of six months after the termination or expiry of this agreement (or, in the case of project management Services, the completion of the Services), solicit or entice away from London Systems or employ or attempt to employ any person who is, or has been, engaged as an employee or sub- contractor of London Systems in the provision of the Services.

7.5 Any consent given by London Systems in accordance with condition 7.4 shall be subject to the Client paying to London Systems a sum equivalent to 20% of the then current annual remuneration of London Systems employee or sub-contractor or, if higher, 20% of the annual remuneration to be paid by the Client to such employee or sub-contractor.

## 8. CHANGE CONTROL

8.1 If the Client adds or removes any software or hardware to the environment or increases the number of users or if either party wishes to amend the Master Schedule or change the scope of the Services, it shall submit details of the requested change to the other in writing.

8.2 If either party requests a change to the scope or execution of the Services, London Systems shall, within a reasonable time, provide a written estimate to the Client of:

8.2.1 the likely time required to implement the change;

8.2.2 any variations to the charges of London Systems arising from the change;

8.2.3 the likely effect of the change on the Master Schedule; and

8.2.4 any other impact of the change on the terms of the Contract.

8.3 If London Systems requests a change to the scope of the Services, the Client shall not unreasonably withhold or delay consent to it.

8.4 Subject to conditions, 8.1, 8.5, 8.6 and 8.7, if the Client wishes London Systems to proceed with the change, London Systems has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges, the Master Schedule and any other relevant terms of the Contract to take account of the change.

8.5 The results of the Preliminary Assessments carried out by London Systems prior to entering into this agreement shall be conclusive evidence of the Client's Equipment supported by the Services unless the Client provides evidence to the contrary to the reasonable satisfaction of London Systems.

8.6 London Systems shall not be obliged to support any equipment or increased user numbers which have not been notified to it under the terms of this condition 8. In the case of such changes which come to the attention of London Systems, the provisions of this condition 8 shall apply. Failure to pay the increased charges pursuant to this condition 8 will constitute a material breach of this agreement entitling London Systems to terminate the agreement pursuant to condition 15.1.

8.7 Notwithstanding the other provisions of this condition 8, London Systems may amend or vary the Contract (other than in relation to charges which are governed by condition 8) by giving the Client 25 days' written notice. Within 10 days of such notification the Client may give London Systems not less than 10 day written notice to terminate the Contract unless the amendment or variation is imposed by law in which case the Client shall not have a right to terminate. If the Client does not terminate within such period, the Client shall be deemed to have accepted the amendment or variation.

8.8 London Systems will not provide supported network administrative rights or permissions to the Client or their 3rd parties. However, with the     Client's permission we will liaise with third parties to arrange required access. The final decision on what level of access is given remains with London Systems.

## 9. CHARGES AND PAYMENT

9.1 Condition 9.4 shall apply if the Services are to be provided on a time-and-materials basis. Condition 9.2 and condition 9.3 shall apply if the Services are to be provided for a fixed price. The remainder of this condition 9 shall apply in either case.

9.2 Where the Services are provided for a fixed price the total price for the Services shall be the amount set out in the Master Schedule. The total price shall be paid to London Systems (without deduction or set-off) in monthly instalments, such instalments being payable one month in advance. London Systems shall invoice the Client for the charges that are payable for the following month, together with expenses and the costs of materials (and VAT, where appropriate), calculated as provided in condition 9.3.

9.3 Any fixed price contained in the Master Schedule or London Systems' quotation excludes:

9.3.1 the cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by London Systems' team in connection with the Services, and the cost of any materials or services reasonably and properly provided by third parties required by London Systems for the supply of the Services. Such expenses, materials and third party services shall be invoiced by London Systems; and

9.3.2 VAT, which London Systems shall add to its invoices at the appropriate rate.

9.4 London Systems reserves the right to:

9.4.1 review the price for the Services annually. Any revision will only take effect from the anniversary of the date of the Contract. The increase shall be such that the total increase in the annual fee shall be such that the total increase since the previous anniversary of this agreement is no greater than the total increase in the United Kingdom Retail Prices Index (all items excluding mortgage interest payments) since the previous anniversary plus an additional 2%; and

9.4.2 subject to condition 9.4.1, increase the price of the Services, by giving notice to the Client at any time, to reflect any increase in the cost of the Services to London Systems that is due to any factor beyond the control of London Systems (including increases in labour, subcontracted services and other third party costs) or that is due to a failure of the Client to give London Systems adequate or accurate information or instructions in respect of the Services (but, for the avoidance of doubt, not an increase due to any additional equipment or increased user numbers which have not been notified to London Systems under the terms of condition 8), provided that London Systems shall give as much notice to the Client as possible and the Client shall have the right to terminate the Contract by giving London Systems written notice within 7 days of receipt of our proposed change. Cancellation charges shall not be payable upon termination pursuant to this condition 9.4.2.

9.5 Where the Services are provided on a time-and-materials basis:

9.5.1 the charges payable for the Services shall be calculated in accordance with the standard daily fee rates of London Systems as amended from time to time;

9.5.2 the standard daily fee rates of London Systems are calculated on the basis of an eight-hour day worked between 8.30 am and 5.30 pm on weekdays (excluding weekends and public holidays);

9.5.3 London Systems shall be entitled to charge at an overtime rate of 25% of the normal rate for part days and for time worked by members of London Systems' team outside the hours referred to in condition 9.5.2 on a pro-rata basis;

9.5.4 London Systems shall ensure that all members of London Systems' team complete time sheets recording time spent on the Services, and London Systems shall use such time sheets to calculate the charges covered by each monthly invoice referred to in condition 9.5.5; and

9.5.5 London Systems shall invoice the Client monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this condition 9.

9.6 The Client shall pay each invoice submitted to it by London Systems in full, and in cleared funds,in accordance with the payment terms set out on the Master Schedule.

9.7 Without prejudice to any other right or remedy that London Systems may have, if the Client fails to pay London Systems on the due date London Systems may:

9.7.1 charge interest on such sum from the due date for payment at the annual rate of 4% above the base lending rate from time to time of Barclays Bank plc, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment. London Systems may claim interest under the Late Payment of Commercial Debts (Interest) Act 1998;

9.7.2 recover from the Client all costs and expenses (including legal costs) London Systems incurs in the collection of any overdue amounts. Costs and expenses will continue to accrue even if the Contract is terminated; and

9.7.3 suspend all Services until payment has been made in full.

9.8 Time for payment shall be of the essence of the Contract.

9.9 All payments payable to London Systems under the Contract shall become due immediately on termination of the Contract, despite any other provision. This condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract.

9.10 London Systems may, without prejudice to any other rights it may have, set off any liability of the Client to London Systems against any liability of London Systems to the Client.

9.11 London Systems operate a Direct Debit scheme for all invoices and require the client to sign up for it.

9.12 Unless specifically stated otherwise in the Master Schedule, the quantities stated in the Master Schedule are a contractual minimum. They can go up however, if requested by the Client and added services and users will be co-termed with the Master Schedule.

## 10. INTELLECTUAL PROPERTY RIGHTS

10.1 The Client retains all Intellectual Property Rights in the Client's data, and grants London Systems a licence to such Intellectual Property Rights to the extent required to perform its obligations pursuant to the Contract.

10.2 All Intellectual Property Rights in any works arising in connection with the performance of the Services by London Systems (Works) shall be the property of London Systems, and London Systems hereby grants to the Client a non-exclusive licence to such Intellectual Property Rights for the purposes of making reasonable use of the Services as is envisaged by the parties. If London Systems terminates the Contract under condition 15.1, this licence shall automatically terminate.

10.3 The Client acknowledges that the Client's use of the Services is conditional on London Systems obtaining a written end-user licence (or sub- licence) of any applicable third party Intellectual Property Rights from the relevant licensor or licensors on such terms as will entitle London Systems to licence such rights to the Client.

## 11. CONFIDENTIALITY AND LONDON SYSTEMS' PROPERTY

11.1 Each of the parties to this Agreement shall keep in strict confidence all technical or commercial know-how, data, including personal data, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed by one party to the other or to its agents, and any other confidential information concerning the business, products, clients or suppliers of one party that the other party may obtain ('Confidential Information). Each of the parties shall restrict disclosure of such Confidential Information to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the obligations of the Client and of London Systems under this Agreement, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the parties.

11.2 All materials, equipment and tools, drawings, specifications and data supplied by London Systems to the Client shall at all times be and remain the exclusive property of London Systems, but shall be held by the Client in safe custody at its own risk and maintained and kept in good condition by the Client until returned to London Systems, and shall not be disposed of or used other than in accordance with London Systems' written instructions or authorisation.

11.3 This condition 10 shall survive termination of the Contract, however arising.

## 12. DATA PROTECTION

12.1 London Systems shall comply with Data Protection Legislation and its relevant obligations under this Agreement and shall procure that any Sub Processor that has access to Client Personal Data shall comply with London Systems's obligations under this Agreement.

12.2 London Systems is a Data Processor in respect of the Client Personal Data processed under this Agreement. London Systems shall:

12.2.1 process the Client Personal Data only on and in accordance with lawful instructions from the Client which may be specific instructions or instructions of a general nature provided directly to London Systems;

12.2.2 process the Client Personal Data only to the extent, and in such manner, as is necessary for the provision of services to the Client; and

12.2.3 inform the Client of any legal requirement under any applicable law that would require London Systems to process the Client Personal Data otherwise than in accordance with the processing instructions or if any Client instruction infringes Data Protection Legislation.

12.3 The Client shall comply with Data Protection Legislation and its relevant obligations under this Agreement.

12.4 London Systems shall implement and maintain, at its cost and expense, appropriate technical and organisational measures in relation to its processing of Client Personal Data so as to ensure a level of security, in respect of Client Personal Data processed by it, that is appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Client Personal Data transmitted, stored or otherwise processed.

12.5 In respect of any Security Incident involving Client Personal Data, London Systems shall without undue delay (and in any event within 24 hours from discovery) notify by telephone two employees as specified by the Client and provide the Client with details of the Security Incident.

12.6 London Systems shall remain fully liable to the Client for the Sub Processor's performance, as well as for any acts or omissions of the Sub Processor as regards its processing of Client Personal Data.

12.7 London Systems shall ensure that its personnel processing Client Personal Data have signed agreements requiring them to keep Personal Data confidential. London Systems shall take all reasonable steps to ensure the reliability of London Systems personnel processing Client Personal Data and that personnel processing Client Personal Data receive adequate training on compliance with the data protection provisions of this Agreement and the Data Protection Legislation.

12.8 London Systems shall forward to the Client and otherwise cooperate with and assist the Client with any requests received from Data Subjects of any Client Personal Data.

12.9 London Systems shall provide reasonable assistance, information and cooperation to the Client to ensure compliance with the Client's obligations under Data Protection Legislation in relation to the processing of Client Personal Data under this Agreement. This includes assistance with any data protection impact assessments and consultations with (or notifications to) relevant data protection regulators.

12.10 London Systems shall not transfer any Client Personal Data to any country outside the European Economic Area without the Client's prior written consent.

12.11 London Systems shall, on request, make available to the Client in a timely manner such information as is required by the Client to demonstrate London Systems's compliance with its obligations under Data Protection Legislation and this Agreement.

12.12 London Systems shall respond to Client requests for audits conducted by the Client or another auditor mandated by the Client for the purpose of demonstrating London Systems's compliance with its obligations under Data Protection Legislation and this Agreement. Permission shall not be unreasonably witheld subject to the Client giving London Systems reasonable prior notice of such audit and/or inspection and ensuring that any auditor is subject to binding obligations of confidentially and that such audit or inspection is undertaken so as to cause minimal disruption to London Systems's business.

12.13 London Systems shall without delay, at the Client's request, either securely delete or return all the Client Personal Data to the Client at the end of this Agreement or, if earlier, as soon as processing by London Systems of any Personal Data is no longer required for London Systems's performance of its obligations under this Agreement, and securely delete existing copies (unless storage of any data is required by applicable law).

## 13. LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF THIS CONDITION

13.1 The following provisions set out the entire financial liability of London Systems (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Client in respect of:

13.1.1 any breach of the Contract howsoever arising;

13.1.2 any use made by the Client of the Services, any deliverables or any part of them; and

13.1.3 any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including negligence) arising under or in connection with the Contract.

13.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.

13.3 Nothing in these conditions limits or excludes the liability of London Systems:

13.3.1 for death or personal injury caused by London Systems' negligence; or

13.3.2 for fraud or fraudulent misrepresentation.

13.4 Subject to condition 13.2 and condition 13.3:

13.4.1 London Systems shall not in any circumstances be liable, whether in tort (including for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:

(a) loss of profits; or

(b) loss of business; or

(c) depletion of goodwill or similar losses; or

(d) loss of anticipated savings; or

(e) loss of goods; or

(f) loss of contract; or

(g) loss of use; or

(h) loss or corruption of data or information; or

(i) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; or

(j) any loss or damage the Client may suffer as a result of any updates to the settings of the Client's Equipment made by London Systems as recommended by the relevant manufacturer.

13.4.2 the Client acknowledges that London Systems is unable to exercise control over the information transmitted through the Hosted Services, the connection or the network and London Systems excludes all liability of all kinds for the transmission or reception of infringing information of whatever nature.

13.4.3 London Systems shall have no liability where any inability of the Client to use the Services is due to incompatibility between Client Equipment and the Service or any third party's communications network or for any breakdown or failure in the Client's Equipment, provided that such failure in the Client's Equipment is not caused by any act or omission of London Systems.

13.4.4 the total liability of London Systems' in contract, tort (including negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to:

(a) the price paid for the Services in the Contract year during which the liability arose; or

(b) where the Contract is less than one year in duration, the greater of the price paid for the Services or £100,000.

## 14. CLIENT'S EMPLOYEES

14.1 The Client warrants, represents and undertakes to London Systems (and shall procure that any supplier of the Services prior to or on the date of this agreement shall warrant, represent and undertake) that it has not terminated and shall not terminate or take any steps to terminate (constructively or otherwise) the employment of any of its employees who were employed or engaged in the provision of the Services prior to or on the date of this agreement as a result of (whether directly or indirectly) or in connection with entering into this agreement and shall (and shall procure that any supplier of the Services prior to or on the date of this agreement shall) fully indemnify and hold London Systems harmless against all claims, costs, expenses or liabilities whatsoever and howsoever arising (including legal and other professional fees and expenses) which London Systems may suffer, sustain, incur, pay or be put to by reason of any claims, costs, expenses or liabilities whatsoever and howsoever arising, including any claims under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE"), by or on behalf of any of its employees who were employed or engaged in the provision of the Services prior to or on the date of this agreement arising from or in connection with their employment or its termination or any act or omission whether prior to or after the date of this agreement which, by virtue of TUPE, is deemed to be an act or omission of London Systems. In the event of any such claim, cost, expense or liability the Client shall, at its own expense, give London Systems such assistance as it may reasonably require to contest any such claim, cost, expense or liability.

14.2 On termination of the Contract for any reason whatsoever, if the resumption of the Services by the Client or the appointment of a third party provider to provide the Services is a relevant transfer for the purposes of TUPE, the Client shall indemnify London Systems against all claims arising from the Client's or the replacement supplier's failure to perform and discharge any obligation and against any claims in respect of any transferring employees arising from or as a result of:

14.2.1 subject to London Systems performing its own obligations in respect of any transferring employees, any act or omission by the Client or any replacement supplier relating to a transferring employee occurring on or after the date of transfer of the Services; and

14.2.2 all and any claims in respect of all emoluments and outgoings in relation to the transferring employees (including without limitation all wages, bonuses, PAYE, National Insurance contributions, pension contribution and otherwise) accrued and payable after the date of transfer of the Services.

## 15. TERMINATION

15.1 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the Contract without liability to the other immediately on giving notice to the other if:

15.1.1 the other party commits a material breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach; or

15.1.2 an order is made or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order of the other party; or

15.1.3 an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other party, or notice of intention to appoint an administrator is given by the other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or

15.1.4 a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other party, or if any other person takes possession of or sells the other party's assets; or

15.1.5 the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way, or becomes bankrupt; or

15.1.6 the other party ceases, or threatens to cease, to trade; or

15.1.7 there is a change of control (as defined in section 1124 of the Corporation Tax Act 2010) of the other party; or

15.1.8 the other party takes or suffers any similar or analogous action to any of the foregoing in any jurisdiction in consequence of debt.

15.2 For the avoidance of doubt, if the performance of the Services by London Systems is prevented or delayed by a failure in a communications network or a subcontractor of London Systems, such failure shall not be considered a material breach of the Contract and condition 15 shall apply.

15.3 Without prejudice to any other rights or remedies to which the parties may be entitled, London Systems may terminate the Contract or part thereof without liability to the Client on giving notice to the Client if:

15.3.1 The Client fails to pay any sum due under the Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or

15.3.2 Any licence, permission or other approval the Client, London Systems or London Systems'subcontractor requires from time to time to connect to the communications network which the subcontractor runs or provide the subcontracted service expires, is revoked, restricted or otherwise ceases to be valid and is not immediately replaced by a further licence, permission or approval conferring on the Client, London Systems or London Systems' subcontractor the appropriate rights; or

15.3.3 The Client makes a material misstatement in the details supplied by the Client to London Systems to enable London Systems to provide the Services; or

15.3.4 London Systems or its subcontractor suspects on reasonable grounds that the Client may have committed or be committing a breach of any law and/or any fraud against London Systems or its subcontractor (as the case may be);or

15.3.5 Any contract or part thereof between London Systems or its subcontractor and a third party provider of telecommunications services is terminated where such termination affects the provision of the Services.

15.4 On termination of the Contract for any reason, the Client shall immediately pay to London Systems all of London Systems' outstanding invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, London Systems may submit an invoice, which shall be payable immediately on receipt. London Systems reserves the right to retain the Client's data until London Systems has received payment in full (in cash or cleared funds) in settlement of such sums due. Once payment is received in full, London Systems shall return all the Client's data, at the cost and expense of the Client payable to London Systems in advance, in the format agreed by the Client and London Systems.

15.5 Termination of the Contract, however arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive, or implicitly surviving, termination.

15.6 For the avoidance of doubt and without prejudice to any other rights or remedies of London Systems, in the case of Hosted Services, if the Contract is terminated by the Client (except for material breach by London Systems), the Client shall pay to the Supplier in full any costs payable to the subcontracted network communications provider and all reasonable costs incurred by London Systems, in addition to all other sums due under condition 15.4.

## 16. FORCE MAJEURE

16.1 London Systems shall not in any circumstances have any liability to the Client under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including strikes, lock-outs or other industrial disputes (whether involving the workforce of London Systems or any other party), failure of a utility service, communications network or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors. Where such force majeure event continues for more than 3 months, either party may without additional liability terminate the Contract by giving written notice to the other party.

## 17. WAIVER

17.1 A waiver of any right under the Contract is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and the circumstances for which it is given.

17.2 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

## 18. SEVERANCE

18.1 If any provision of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

18.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

## 19. ENTIRE AGREEMENT

19.1 Each of the parties acknowledges and agrees that in entering into the Contract and the documents referred to in it or annexed to it, it does not rely on any statement, representation (whether innocent or negligent), assurance or warranty (Representation) (whether in writing or not) of any person (whether party to the Contract or not) other than as expressly set out in the Contract or those documents.

19.2 In the event of any inconsistency or conflict between these conditions and the Master Schedule, the terms of the Master Schedule shall prevail.

19.3 Each party agrees that the only rights and remedies available to it arising out of or in connection with a Representation shall be for breach of contract.

19.4 Nothing in this clause shall limit or exclude any liability for fraud.

## 20. ASSIGNMENT

20.1 The Client shall not, without the prior written consent of London Systems, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

20.2 London Systems may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

## 21. NO PARTNERSHIP OR AGENCY

21.1 Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

21.2 London Systems purchases certain Services from third parties for resale to London Systems' customers. For the avoidance of doubt, the Client acknowledges that London Systems is not an agent of such third parties for any purpose.

## 22. THIRD PARTY RIGHTS

The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns, and is not intended to benefit, or be enforceable by, anyone else.

## 23. NOTICES

23.1 Any notice under the Contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address as set out in the Contract, or such other address as may have been notified by that party for such purposes, or sent by fax to the other party's fax number as set out in the Contract.

23.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not during business hours, at 9.00 am on the first business day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).

## 24. DOMAIN RENEWALS - For .co.uk domains only

All domains are renewed on an annual basis, we will send out invoices 60 days prior to your domain name expiring. We will send the invoice to the email address on the account, and it is the registrant's responsibility to make sure their contact details are up to date. If you do not wish to renew a domain please make sure you contact us a minimum of 35 days before your domain expires by emailing accounts@lonsys.co.uk If you request that you no longer wish to have your domain name renewed by us, it will be left to expire and all services we provide regarding that domain name will be suspended. Your domain name will then go into a 30-day protected period, after 30 days your domain will be suspended by Nominet, and it will go into a 60-day grace period. If you change your mind and still wanted to retain your domain name, you still can and at the original renewal price. This must be requested by email before the 80th day after your domain has expired, after 90 days your domain will be cancelled and deleted from the register and made available for resale through a third-party registrar by Nominet. London Systems will not guarantee the renewal of a domain name after this happens.

## 25. MICROSOFT LICENCES AND SERVICES

For all Microsoft licences and services provided under the contract, the Microsoft Customer Agreement (the "Agreement") is between Client and Microsoft and consists of General Terms, the DPA, the applicable Product Terms and SLAs, and any additional terms Microsoft presents when an order is placed. This Agreement takes effect when the Customer accepts it, applies to any order under this Agreement, and supersedes any end user license agreement that accompanies a Product. The individual who accepts the Agreement represents that they are authorized to enter into this Agreement on behalf of Client. Capitalized terms have the meanings given under "Definitions. Microsoft services: The Microsoft Customer agreement can be found at https://www.microsoft.com/licensing/docs/customeragreement.

## 26. GOVERNING LAW AND JURISDICTION

26.1 The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by and construed in accordance with the law of England.

26.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter or formation (including non-contractual disputes or claims).