

Support Services Agreement

General Terms

1. This document together with various attachments forms a Contract between you (the “Account Holder”) and Jarrett & Lam Consulting (trading as “JLC”, “we”, “us”).

2. Introduction to the documents that form the Contract

2.1. This Master Services Agreement (“MSA”) and its Schedules set out the overall agreement between you and us. The MSA covers the general terms of the agreement. Every Service that you take from us will be covered by a separate Service Schedule describing what we are providing to you and the relevant charge for that Service.

3. Definitions

3.1. Account Manager: a member of our staff who is designated as your primary point of contact with us.

3.2. Business Customers: if you use the Equipment or Services other than as a Consumer Customer then you are a Business Customer and our relationship is a business one for legal purposes.

3.3. Backup Data: the data which we backup from your computer, including the operating system, application software, settings and data files.

3.4. Backup Software: a program that we install on your computer to backup your data to our Data Storage.

3.5. Computer: any personal or server computer which we are providing our Services to.

3.6. Consumer Customers: if you use the Equipment or Services for purposes outside of your trade, business or profession you are a Consumer Customer.

3.7. Data Storage: the space we provide at our data centres for storing backup copies of your data.

3.8. Equipment: any equipment used by you in connection with the Service.

3.9. Premises: your place of business or any other location where you require Managed Equipment to be installed or our representatives, agents, contractors or employees to attend in providing the Service.

3.10. Managed Equipment: any equipment that we have supplied or specified to you, including a Computer, and which is covered by our Managed Computing Service.

3.11. Minimum Period: the minimum period for which a Service agreement will run, as set out in the Service Schedule.

3.12. Product: an item of software or hardware that we supply, license or sell to you.



3.13. **Service:** any service we provide to you in accordance with Schedule A, Schedule B and any Service Schedule annexed to this agreement.

3.14. **Service Level:** a measurable standard of performance of our Services which we agree to work to. Service Levels are set out in the Service Schedules.

3.15. **Service Schedule:** a part of this agreement that sets out the details of a Service that we will provide to you.

3.16. **Service Start Date:** the date when a particular Service starts, set out in the Services Schedule.

3.17. **Telephone Data Line:** a telephone line over which we supply a DSL internet connection.

4. What we will do for you

4.1. We will provide you with the Services set out in this MSA and in the Service Schedules which refer to this MSA. We will provide the Services with reasonable skill and care to normal professional standards.

4.2. We will from time to time provide you with consultancy services for general advice and assistance in relation to the Services. These will be charged on a time and costs basis, according to our standard rates. Such consultancy services will be provided with our prior consent and at mutually agreeable dates and times.

4.3. We aim to make your computing experience as hassle-free as possible. You agree that computers, software and their associated products are often supplied in an imperfect state and that our role is to reduce the effects of such imperfections rather than to eliminate or correct them.

4.4. Jarrett & Lam Consulting may use third party software to collect and store information about systems to assist in the diagnosis and resolution of errors.

5. Duration and Termination

5.1. This Contract will commence on the date of your signature of these terms or of despatch of our acceptance of your order, whichever is earlier, and shall continue in force until terminated by either party in accordance with clause 5.2. It shall apply to all Services supplied by us from time to time in accordance with any Service Schedule.

5.2. How you can end a Service

5.2.1. You may cancel any Service at any time after the Minimum Period without penalty by giving us 30 days notice. If you cancel a Service within the Minimum Period specified for that Service then you will be liable for all the unpaid fees for the Minimum Period.

5.2.2. You may cancel any Service by giving us written notice within 14 days of our announcement of a price increase for that Service where the increase causes a cumulative increase of more than 15% over the past 12 months. If you cancel for this reason, you will receive the Service for 30 days at your current pricing.

5.2.3. You may terminate this agreement immediately by giving written notice for any continuing material breach of this agreement by us and, if the breach is capable of remedy, we fail to remedy it within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied.



5.2.4. You may cancel this contract without notice if we go into liquidation, suffer or make any winding up petition, make an arrangement with creditors, have an administrator or receiver appointed, or enter any form of insolvency proceedings other than for the purposes of amalgamation or reconstruction.

5.3. We may terminate the supply of any Service or of this Contract:

5.3.1. For any reason by giving you 30 days notice;

5.3.2. Forthwith, where a Service is provided using a facility provided to us by a third party and that facility for any reason becomes unavailable or available only on significantly changed terms, in which case we will use our best endeavours to find a replacement service;

5.3.3. Forthwith, without notice if you do not comply with your payment obligations under clause 6 or for any continuing material breach of this agreement by you and, if the breach is capable of remedy, you fail to remedy it within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

5.3.4. Forthwith, without notice if you become bankrupt, go into liquidation, suffer or make any winding up petition, make an arrangement with your creditors, have an administrator or receiver appointed, or enter any form of insolvency proceedings.

5.4. What happens when a Service ends

5.4.1. You will immediately follow our instructions to destroy or return to us all Products licensed to you under this Contract.

6. Fees and changes to this contract

6.1. You will pay the fees set out in your Service Schedules monthly in advance on the day agreed on acceptance of these terms or as otherwise agreed with us. We will send our invoices to your email address unless otherwise agreed with us.

6.2. You shall make all payments due under the Service Schedules without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless you have a valid court order requiring an amount equal to such deduction to be paid by us to you.

6.3. You must notify us of any disputes in amounts owed within 7 days of receipt of an invoice. Failure to notify us within this time will be construed as a waiver of any of its rights to dispute the invoice.

6.4. You agree to the acceptance tests and procedure attached to any Service Schedule.

6.5. You acknowledge that our Services are provided using facilities provided to us by third parties. We reserve the right to increase our charges at any time subject to 14 days notice to you, whether to reflect increased costs to us from such third parties or otherwise.

7. Acceptance

7.1. Once the Managed Equipment and any Service or part of any Service referred to in the Acceptance Test Schedule has successfully passed the Acceptance Tests the Managed Equipment and such Service



or part thereof shall be accepted by you and you shall sign the Acceptance Tests Schedule acknowledging acceptance of the Managed Equipment and such Service or part thereof.

8. Your Obligations to us (“Your Obligations”)

8.1. You agree not to use the Services in any way, or for any data, that: infringes on the intellectual property rights (including patents, copyrights, trademarks and servicemarks) of any third party; Violates any law or regulation; Is defamatory, libellous, unlawfully threatening or unlawfully harassing; Is obscene, pornographic or indecent; May damage the property, systems or data of others; Involves risks of death, personal injury, severe property damage or environmental damage; Involves life support systems, devices or applications; Breaches a contractual commitment between you and a third party.

8.2. Save to the extent permitted by law you will not try to decompile or reverse engineer the Products. You will not try to use our Services in any other way than how we have offered them to you. You will not attempt to connect to our servers except as provided in the Service.

8.3. In the event that any Equipment, Service or Product that we provide to you as part of our Services is subject to a third party licence we shall advise you of the terms of such licence and you hereby agree to abide by such terms. Except when specifically agreed, you agree that any licensed Products that we provide are part of the Services and you do not own them or have any property rights over them.

8.4. We aim to keep your data as private as possible. You acknowledge that in certain situations our staff may be in a position to see the contents of files on your computer. We will apply every safeguard to ensure that our staff do not violate the privacy of your data in any way.

8.5. You will ensure that all data is backed up on any Equipment that you ask us to perform work on.

9. Data Protection

9.1. We undertake to comply with the provisions of the Data Protection Act 1998 and any related legislation insofar as the same relates to the provisions and obligations of this Agreement.

9.2. We undertake that we will comply with obligations equivalent to the obligations of a ‘data controller’ under the provisions of the seventh data protection principle as set out in the Data Protection Act 1998.

9.3. In addition, we:

9.3.1. warrant that we have appropriate technical and organisational measures in place against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data held or processed by us and that we have taken reasonable steps to ensure the reliability of any of our staff who have access to personal data processed in connection with this agreement;

9.3.2. undertake that we will act only on your instructions in relation to the processing of any personal data in connection with this agreement; and

9.3.3. undertake to allow you access to any relevant premises on reasonable notice to inspect our procedures described above.

9.4. The obligations set out in this clause 8 shall remain in force notwithstanding termination of this Agreement.



9.5. You understand that you can use encryption and personal security programs to increase the security and privacy of your files. You agree that if any of your files are particularly private then you will use such precautions. You agree that if you are required under any professional or statutory regulations to keep your data confidential or secure then you will encrypt them so that our support staff cannot have access to them when working on your equipment. You understand that we are not authorised by any financial regulators such as the UK Financial Services Authority or the US Securities and Exchange Commission.

9.6. We gather and hold personal data about you, including your name, physical and email addresses, and telephone numbers; we do not hold your credit card information. Our Privacy Policy is available from our web site and states how we will use and protect your personal data. We are also registered under and comply with the UK Data Protection Act 1998.

10. Warranty

10.1. We warrant that all services supplied under this Agreement will be carried out with reasonable care and skill by personnel whose qualifications and experience will be appropriate for the tasks to which they are allocated.

10.2. You acknowledge that it is your responsibility to ensure that the facilities and functions described in the Schedules meet your requirements.

10.3. Where we sell Equipment to you we warrant that the Equipment will be free from material defects and be of satisfactory quality and that any software provided by the company will substantially meet the specifications set out in any accompanying documentation. Where possible we will transfer to you the benefit of any warranty or guarantee given to us.

10.4. Except as expressly provided in this Agreement, no warranty, condition, undertaking or term, express or implied, statutory or otherwise is given or assumed by us, and all such warranties, conditions, undertakings and terms are hereby excluded to the fullest extent permitted by law.

10.5. We shall have no liability to you for any loss of your original data due to any error or omission by you, or due to any event that takes place at your Premises, unless such event is caused by our negligence. You should where possible obtain your own insurance cover for any equipment or software that has not been supplied by us.

10.6. You acknowledge that software can never be guaranteed to be error free. We do not warrant that all errors can and will be corrected. We shall use our reasonable endeavours to correct errors in the Service or Managed Equipment.

10.7. You must promptly notify us of any non-conformance to the above warranties in order to benefit from the remedy stated above, and in any event within three months.

10.8. You acknowledge that it remains your responsibility to ensure data held within your systems remains securely stored and backed up. Where backup systems are provided or configured by us it remains your responsibility to verify their continued successful operation and correct configuration.

11. Liability

11.1. We do not exclude our liability to you for direct damage to tangible property caused by the negligence of our employees in connection with the performance of their duties under this agreement or



by defects in any Product supplied pursuant to this Agreement. Our total liability under this clause shall be limited to £2,500 for any one event or series of connected events.

11.2. Save in respect of claims for death or personal injury arising from our negligence, in no event will we be liable for any damages resulting from lost profits, loss of anticipated savings, nor for any damages that are an indirect or secondary consequence of any act or omission by us, whether such damages were reasonably foreseeable or actually foreseen.

11.3. Except as provided above in the case of personal injury, death and damage to tangible property, our maximum liability to you under this Agreement or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to the amount received by us from you in respect of the Service in the previous 12 months.

11.4. The parties hereby acknowledge and agree that the limitations contained in this clause 11 are reasonable in light of all the circumstances.

11.5. Your statutory rights as a consumer (if any) are not affected. All liability that is not expressly assumed in this Agreement is hereby excluded to the fullest extent permitted by law. These limitations will apply regardless of the form of action, whether under statute, in contract or tort, including negligence, or any other form of action. Nothing in this Agreement shall exclude or limit liability for fraudulent misrepresentation.

12. Retention of title

12.1. Ownership of Equipment you purchase from us (the Goods) shall not pass to you until we have received in full (in cash or cleared funds) all sums due to us in respect of the Goods and all other sums which are or which become due to us from you on any account.

12.2. Until ownership of the Goods has passed to you, you must:

12.2.1. hold the Goods on a fiduciary basis as our bailee;

12.2.2. store the Goods (at no cost to us) separately from all your other goods or any third party in such a way that they remain readily identifiable as our property;

12.2.3. not destroy, deface or obscure any identifying mark or packaging on or relating to the Goods;

12.2.4. maintain the Goods in satisfactory condition and keep them insured on our behalf for their full price against all risks to our reasonable satisfaction. On request you shall produce the policy of insurance to us; and

12.2.5. hold the proceeds of the insurance referred to in clause 12.2.4 on trust for us and not mix them with any other money, nor pay the proceeds into an overdrawn bank account.

12.3. Until ownership of the Goods has passed to you, your right to possession of the Goods shall terminate immediately if:

12.3.1. you have a bankruptcy order made against you or make an arrangement or composition with your creditors, or otherwise take the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convene a meeting of creditors (whether formal or



informal), or enter into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or have a receiver and/or manager, administrator or administrative receiver appointed of your undertaking or any part thereof, or a resolution is passed or a petition presented to any court for winding up or for the granting of an administration order in respect of you, or any proceedings are commenced relating to your insolvency or possible insolvency; or

12.3.2. you suffer or allow any execution, whether legal or equitable, to be levied on your property or obtained against you, or fail to observe/perform any of your obligations under this agreement or any other contract between us, or are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or you cease to trade; or

12.3.3. you encumber or in any way charge any of the Goods.

12.4. We shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from us.

12.5. You grant us, our agents and employees an irrevocable licence at any time to enter any premises where the Goods are or may be stored in order to inspect them, or, where your right to possession has terminated, to recover them.

13. Intellectual Property

13.1. Intellectual Property includes trademarks, servicemarks, domain names, logos and other branding elements ("Marks"); and patents, copyrights, inventions, know-how, processes and software; and all associated rights in these.

13.2. All Intellectual Property Rights in the Products, Services and their associated Marks remain the property of us or our suppliers, except where expressly stated.

13.3. Where we provide software to enable you to use the Services, we grant you a non-exclusive, non-transferable licence to use the software solely in connection with those Services.

13.4. You hereby agree that you will comply with any terms and conditions reasonably required by the owner of the copyright in any software to protect the owner's interest in that software.

14. Third Party Software

14.1. We may use certain software licensed from an external source in connection with our Services. Such software and its use are subject to and governed by an Outsourcing Services Software License Agreement (including, without limitation, its limitation of liability provisions) between us and the external source. To the extent that you use or have access to such software, you agree not to: (i) disassemble, de-compile, or otherwise reverse engineer the software, or (ii) create derivative works based on the software, or (iii) rent, lease, sublicense, distribute, disclose, translate, transfer, modify or reprogram the software, or (iv) timeshare the software, make the software available to others, or allow others to copy.

14.2. You agree you will not export our external source Licensed Software to any country in contravention of any law or regulation of the country of origin of the external source or any of its agencies, including the Export Administration Act of 1979 and regulations relating to it. It is your responsibility to comply with all government requirements.



14.3. You agree to be bound by the terms of the Microsoft software licence in respect of any hosted Microsoft Exchange or Sharepoint services we provide to you.

15. Miscellaneous

15.1. You may not transfer this Contract or any part of it to another party without our agreement in writing. We may transfer its rights or obligations to a company in the same group as us without your consent.

15.2. This Contract binds you and each of your employees, agents and persons associated with you, including any of your associated companies and organisations that receive or use our Services or Products.

15.3. Either you or we can temporarily overlook a breach of a term of this contract and still have the right to enforce it at a later date.

15.4. It may happen that a part of this Contract is deemed to be invalid, unenforceable or illegal. In that case, we will modify that part to make it valid, enforceable and legal; we will make the modification in the way that best reflects the original intention of the part. The modified Contract will then become the agreement between us.

15.5. Notwithstanding that the whole or any part of any provision of this Contract may prove to be illegal or unenforceable the other provisions of this Contract and the remainder of the provision in question shall remain in full force and effect.

15.6. No term of this Contract shall be enforceable under the Contracts (Rights of Third Parties) Act 1999 by a third party.

15.7. Any notices and complaints under this contract must be in writing by email or paper to

15.7.1. You at the email address or physical address held in our records for you

15.7.2. Us at the email address or physical address specified under the link on our website homepage.

15.8. This Contract will be construed in accordance with, and will be governed by, the law of England and Wales. Each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

15.9. This agreement and any Service Schedules that refer to it are the entire agreement between you and us. IN WITNESS whereof this Agreement was signed on behalf of the parties hereto the day and year first before written.

END

SIGNED by
as director for and on behalf of
Jarrett & Lam Consulting

SIGNED by
as director for and on behalf of
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