The Customer's attention is drawn to the exclusions from and limitations of liability contained in these Terms and Conditions and in particular to the provisions of Clauses 3.3, 4.1, 6.3, 6.4, 11.4, 11.8, 11.9, 11.12, 11.13, 12.3, 12.4, 12.6, 12.8, 14.1, 15.2, 16.3, 17.1, 19, 22 and 29 of this Agreement

The services supplied by Cloud Boffins are intended to reduce the insecurity of the Customer, but no security service can provide perfect security. Cloud Boffins believes that the limitations of liability in these Terms and Conditions are a reasonable split of risk as between Cloud Boffins and the Customer. The services provided by Cloud Boffins are not intended to be a substitute for the Customer obtaining appropriate Cyber Security Insurance.

THESE TERMS AND CONDITIONS apply to all supplies made by Vanick Consultancy Services Ltd (incorporated and registered in England and Wales with company number 05515913 whose registered office is at 3 Welton Avenue, Belper, DE56 1UD trading as "Cloud Boffins" ("Cloud Boffins")) to you and whether you are a person, partnership, company or other undertaking (the "Customer").

BACKGROUND

(1) Vanick Consultancy Services Ltd is a company engaged in the provision of certain services for computer systems and has agreed to provide specified services for the Customer's computer system pursuant to this Agreement.

(2) The Customer wishes to purchase and Vanick Consultancy Services Ltd wishes to supply the specified services indicated in the Choice of Service to the Customer.

(3) Vanick Consultancy Services Ltd and the Customer have agreed that any future supply of services and associated services such as configuration by Cloud Boffins to the Customer will be governed by the provisions of this Agreement and set out in a future Choice of Service.

AGREED TERMS

1. Interpretation

1.1 The following definitions apply in these Terms and Conditions, and unless expressly indicated otherwise in a Choice of Service in any Choice of Service:

'Additional Charges' means Cloud Boffins' charges to be calculated by Cloud Boffins in accordance with the Standard Rate;

'Additional Services' means any services provided by Cloud Boffins in addition to the services which Cloud Boffins is bound to provide for the Total Fee;

'Agreement' means the agreement based on these Terms and Conditions;

'Business Day' means a day (i) other than a Saturday or Sunday or (ii) other than a public holiday in England;

'Choice of Service' means all or some of the services offered by Cloud Boffins as chosen by the Customer;

'Clause' means a clause of these Terms and Conditions;

'Commencement Date' means the date on which the Customer entered into a

Choice of Service or otherwise commenced receiving the Managed Supply;

'Consequential Loss' means pure economic loss, loss of profit, loss of use of trade marks, loss of business, loss of reputation and like loss;

'Customer Data' means all information or data in whatever form relating to the Customer, Users or the Customer's clients and business stored or processed by the Customer in connection with its use of the Managed Supply including any information provided by Users in connection with their access to or use of the Managed Supply (but excluding always data collected directly by Cloud Boffins in the ordinary course of its business about the Customer and relating to the formation or operation of this Agreement, a Choice of Service or Cloud Boffins' relationship with the Customer);

'Data Controller' means a data controller as defined in the Data Protection Legislation;

'Data Processor' means a data processor as defined in the Data Protection Legislation;

'Data Protection Legislation' means the UK General Data Protection Regulation (as retained in UK law by the European Union (Withdrawal) Act 2018) and the Data Protection Act 2018 (as amended);

'Failure' has the meaning given in Clause 6.3;

'Goods' means the items which the Customer agrees to buy from Cloud Boffins as set out in the Order.

'Intellectual Property Rights' means a patent, right in a design, copyright, data base right, domain name, trade mark and any other intellectual property right whether or not registered or capable of registration and wherever situated in the world;

'Loss of Data' means a loss of or corruption to data or programs held or used by or on behalf of the Customer;

'Malware' means malware, viruses, trojans and other forms of harmful computer code;

'Managed Supply' means the configuration and provision of the services to be provided by Cloud Boffins pursuant to this Agreement or a Choice of Service;

'Monthly Renewal Date' means the date in a month on which the Managed Supply commences and on which the Customer is billed (provided that where such date is the 29th, 30th or 31st in a month Cloud Boffins may make such variations as it deems appropriate);

'Objectionable' in the context of material or content means material or content that contains Malware or is defamatory, obscene, hateful, profane, which contains racist terminology or is unlawfully pornographic;

'Order' means the Customer's order for the supply of Goods and/or Services, as

set out in in the Customer's written or electronic acceptance of Cloud Boffins' quotation, as the case may be;

'Party' means Cloud Boffins or the Customer;

'Personal Data' means such of the Customer Data which is personal data as defined in the Data Protection Legislation;

'Personal Data Breach' means a personal data breach as defined in the Data Protection Legislation affecting the Customer Data;

'Representative' means the contact within the Customer's business appointed and authorised by the Customer pursuant to Clause 8 of this Agreement;

'Proprietary Software' means software which is used by the Customer but licensed by a Third Party and managed or supplied as part of the Managed Supply;

'Source Code' means the source code of software, in the language in which the software was written, together with all related flow charts and technical documents;

'Standard Rate' means Cloud Boffins' standard rate for time, materials, services, travel, accommodation and subsistence from time to time prevailing;

'Standard Support Hours' means 9:00 a.m. to 5:30 p.m. UK local time during a Business Day;

'Stored Data' means all information or data in whatever form belonging to the Customer, Users or the Customer's clients stored or processed by Cloud Boffins in connection with the provision of the Managed Supply including for the avoidance of doubt where the Managed Supply;

'Support Services' means Cloud Boffins' software support services as indicated in clause 12.2, which support services form part of the Managed Supply;

'Term' means the period of three months unless otherwise agreed in writing by the Parties;

'Termination Event' means of the following events:

a. the Customer fails to pay any moneys, fees, charges, Third Party costs, Tie In Licence Fees or other sums due under this Agreement or a Choice of Service on the due date for payment;

b. the Customer breaches a term or condition of this Agreement or a Choice of Service (other than a term or condition requiring payment of moneys as provided for in paragraph (a) above) and (in the case of a breach capable of being remedied) fails to have remedied such breach within thirty (30) days of a written request by Cloud Boffins so to do;

c. where the Customer (otherwise than for the purposes of amalgamation or reconstruction of a solvent company) convenes a meeting of its creditors or a proposal is made for a voluntary arrangement within part 1 of the Insolvency Act 1986 or a proposal is made for a composition, scheme or arrangement with (or assignment for the benefit of) its creditors or if the

Customer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or a trustee, receiver, administrative receiver or a similar officer is appointed in respect of all or a part of the business or assets of the Customer or a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the Customer or for the making of an administration order or (where the Customer is established in a country other than the United Kingdom) an event takes place in the territory in which the Customer is established which is similar to any of the foregoing;

d. the Customer ceases to carry on business or threatens so to do;

'**Third Party**' means a person, partnership, company or any other undertaking not being Cloud Boffins or the Customer;

'Third Party Costs' means any costs, fees, charges, penalties, early termination fees, cancellation charges, clawbacks, price increases, committed term charges or other amounts imposed on or payable by Cloud Boffins by or to any Third Party supplier, vendor, licensor, telecommunications provider, software provider or other supplier in connection with the Customer's use of, change to, suspension of, cancellation of or termination of any Goods, Managed Supply, Proprietary Software, licence, subscription or other service.

'Tie In Licence' means a licence or maintenance fee which is made through or by Cloud Boffins or which is organized by Cloud Boffins on behalf of the Customer upon which the Managed Supply provided by Cloud Boffins to the Customer is dependent;

'Tie In Licence Fee' means any licence fee payable to the licensor of a Tie In Licence;

'Timely Manner' means in a timely manner and in any event in accordance with any timetable in a Choice of Service or otherwise agreed between the Parties;

'Total Fee' means the total fee indicated as payable for the supply and management of the services identified in the Choice of Service, which fee may consist of a recurring and a non-recurring element;

'**User**' means a user of the Managed Supply, who is granted access to the Managed Supply by or on behalf of the Customer;

'Variable' means, in respect of a service within the Choice of Service, the variable by which that service is charged which variable may be by way of example the number of Users; the number of licensed mailboxes or the number of licensed personal computers;

'**Year'** means a calendar year commencing on the Commencement Date or an anniversary thereof.

1.2 In these Terms and Conditions:

1.2.1 a reference to a particular law is a reference to that law as it is in force from time to time, taking account of any amendment, extension, application or re-enactment of it, and includes any subordinate legislation for the time being in force made under it;

1.2.2 words in the singular include the plural and, in the plural, include the singular;

1.2.3 a reference to one gender includes a reference to all the other genders;

1.2.4 the Clause headings shall not affect the interpretation of this Agreement;

1.2.5 a reference to writing or related expressions includes a reference to email or other means of electronic communication between the Parties;

1.2.6 an 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;

1.2.7 references to “including” and “includes” mean respectively “including without limitation” and “includes without limitation”;

1.2.8 where an example is included, the use of the example shall not be interpreted as reducing the interpretation of the general words in respect of which the example is given;

1.2.9 references to “content” include any kind of text, information, image, audio or video material which can be incorporated in a website for access by a visitor to that website;

1.2.10 where any consent is to be given by Cloud Boffins under this Agreement or pursuant to any Choice of Service, Cloud Boffins shall be entitled to give or withhold that consent at the absolute discretion of Cloud Boffins;

1.2.11 save where otherwise indicated where any discretion or determination is to be exercised by Cloud Boffins under this Agreement or pursuant to any Choice of Service, Cloud Boffins shall be entitled to exercise that discretion or determination in the absolute discretion of Cloud Boffins; and

1.2.12 save where otherwise indicated where any matter is to be specified by Cloud Boffins under this Agreement or pursuant to any Choice of Service, Cloud Boffins shall be entitled to specify that matter in the absolute discretion of Cloud Boffins.

1.3 Notwithstanding the foregoing, in the event of any conflict between Clauses relating to Third Party Costs (including without limitation Clauses 11.11 to 11.15 and 21.3) and any other provision of this Agreement or any Choice of Service, the Clauses relating to Third Party Costs shall prevail.

2. Introduction

2.1 Each Party warrants to the other that it has full power and authority to enter into and perform the obligations imposed upon that Party under this Agreement.

2.2 This Agreement shall commence on the Commencement Date and shall continue for the Initial Period and thereafter until terminated at an earlier date in accordance with the provisions of this Agreement.

2.3 A Choice of Service shall always be regarded as being made subject to and in accordance with the provisions of this Agreement.

2.4 These Terms and Conditions apply to each Choice of Service and to any offer by Cloud Boffins to supply services to the Customer to the exclusion of any other terms and conditions which the Customer seeks to impose or incorporate, or which are implied by trade, custom or practice. The Customer acknowledges that this Agreement and the Choice of Service shall prevail over any qualification, term or condition purported to be imposed by the Customer (whether in its sales documentation, invoice or elsewhere and whether purported to be imposed now or at a later point in time) and any previous course of dealing between the Customer and Cloud Boffins.

2.5 This Agreement and the relevant Choice of Service shall govern the overall relationship of the Parties with respect to the provision of services by Cloud Boffins to the Customer.

3. Scope of the Managed Supply and Goods

3.1 The scope of the Managed Supply and the delivery of services is more particularly set out in a Choice of Service. Cloud Boffins shall supply the services identified from time to time in the Choice of Service.

3.2 Cloud Boffins shall, in accordance with this Agreement and a Choice of Service and in return for payment of the Total Fee develop and deliver the services identified in the relevant Choice of Service.

3.3 All dates supplied by Cloud Boffins for the configuration and provision of any services and the Managed Supply shall be treated as being approximate only. Cloud Boffins shall not be liable for any delay howsoever arising if such dates are not complied with or met. No liability shall accrue to Cloud Boffins for any delay howsoever arising in the provision of the Managed Supply or the Support Services.

3.4 Subject to Clause 3.3 above, Cloud Boffins shall use its reasonable endeavours subject to its other contractual commitments from time to time prevailing and to the availability of goods and personnel to comply with any timetable and delivery dates provided by Cloud Boffins to the Customer.

3.5 For the avoidance of doubt, where the provision of any goods or services (including without limitation any hardware or software) is not expressly included in any Choice of Service, Cloud Boffins shall be under no obligation to provide those goods or services, although Cloud Boffins may agree to do so as an Additional Service in

accordance with Clause 9, for which Cloud Boffins shall be entitled to levy Additional Charges.

3.6 Carriage will be chargeable on all sales of Goods.

3.7 Cloud Boffins reserves the right to amend or change the specification of the Goods if required by any applicable statutory or regulatory requirements.

3.8 Title in the Goods shall remain with Cloud Boffins and shall not pass to the Customer until the amount due under the invoice for them (including interest and costs) has been paid in full.

4. Customer Responsibilities

4.1 The Customer acknowledges that Cloud Boffins' ability to determine the Customer's requirements for and to provide the Managed Supply is dependent upon the full co-operation of the Customer in a Timely Manner (which the Customer agrees to provide), as well as the accuracy and completeness of the information and data the Customer provides to Cloud Boffins.

4.2 The Customer shall:

4.2.1 in a Timely Manner provide Cloud Boffins with access to, and use of, all information, data and documentation reasonably required by Cloud Boffins for the performance by Cloud Boffins of its obligations under this Agreement and the Choice of Service; and

4.2.2 deal with all reasonable instructions from Cloud Boffins in a Timely Manner when requested;

4.2.3 be responsible for ensuring that all statutory governmental regulations, local authority regulations, operating instructions and safety precautions are complied with in relation to its receipt and use of Goods supplied by Cloud Boffins;

4.2.4 be deemed to have accepted the Goods three (3) days after delivery to the Customer and/or the Customer's designated storage location;

4.2.5 carry out a thorough inspection of the Goods within three (3) days and give notice in writing to Cloud Boffins after discovering that some or all of the goods do not match those specified in the Order, the Customer must return the Goods to Cloud Boffins at the Customer's cost and Cloud Boffins shall, at its option, repair or replace any Goods that are defective, or refund the price of such defective Goods;

4.2.6 not be entitled to reject Goods which are not in accordance with the Order, once the Goods have been accepted or deemed to have been accepted by the Customer.

5. Quote

5.1 For the avoidance of doubt a Choice of Service may be created by automated means on Cloud Boffins' website or be created in a formal quotation document created

by Cloud Boffins.

6. Warranties

6.1 Cloud Boffins warrants that it shall perform the Managed Supply and any other services supplied pursuant to or as an adjunct to this Agreement with reasonable care and skill and, in so doing, shall deliver the Managed Supply in accordance with the relevant Choice of Service in all substantial respects. For the avoidance of doubt, compliance with this Clause 6.1 shall be assessed by reference to whether Cloud Boffins has exercised reasonable care and skill in delivering the Managed Supply, having regard to the nature of the services and the relevant Choice of Service.

6.2 Without limiting Clause 6.1, Cloud Boffins shall use reasonable care and skill to ensure that the Managed Supply conforms in all substantial respects to the description of the services set out in the relevant Choice of Service.

6.3 If Cloud Boffins fails to deliver the Managed Supply in accordance with the relevant Choice of Service in all substantial respects (a “Failure”), Cloud Boffins’ sole obligation shall be to carry out any work necessary in order to ensure that the Managed Supply does comply with or is in accordance with the relevant Choice of Service in all substantial respects.

6.4 Without prejudice to the provisions of Clause 26.2, the warranties set out in Clauses 6.1 and 6.2 shall not apply to the extent that any Failure is caused by any product, material or content provided by or any work carried out or any change in the Managed Supply made by the Customer or by a Third Party (including without limitation a Third Party who is a supplier of services to Cloud Boffins). In these circumstances, Cloud Boffins’ sole obligation shall be to use its reasonable endeavours to pass on to the Customer the benefit of any warranty or guarantee given to Cloud Boffins by the relevant Third Party.

7. Hardware

7.1 Where implementation services are provided by Cloud Boffins, the Customer shall in a Timely Manner provide Cloud Boffins with access to, and use of the Customer’s computer systems reasonably required by Cloud Boffins to enable Cloud Boffins to provide the Managed Supply.

8 Customer Representative

8.1 Where so requested by Cloud Boffins, the Customer shall appoint one or more Representatives who shall be authorised to make decisions in connection with this Agreement, the Choice of Service and the Managed Supply on behalf of the Customer. The said Representative shall act as a point of contact and be responsible for liaising with Cloud Boffins about the Managed Supply and any ancillary matter.

9. Change of Choice of Service

9.1 The Customer may change an aspect of the Managed Supply or a Choice of Service by adding or subtracting a service or by increasing or decreasing the relevant Variable for a service at any time provided that where the Term exceeds one month the Customer may not remove an aspect of the Managed Supply or a Choice of Service by subtracting a service or decrease a relevant Variable for a service until a

Monthly Renewal Date on or after the expiry of the Term.

9.2 Without prejudice to the provisions of Clause 9.1, Cloud Boffins shall determine the charges on a month by month basis, and calculate the same using the Variable actually consumed by the Customer for that month for each service within the Choice of Service.

10. Ownership and Licence of Intellectual Property Rights

10.1 The Managed Supply may include the right to use Proprietary Software.

10.2 Notwithstanding any description of the Customer's rights as or by virtue of a sale (howsoever made and whether made orally or in writing and whether made in this Agreement, a Choice of Service or in any other document) the Customer's only right to use the Managed Supply and any software is by virtue of the licence granted by Cloud Boffins and the owners of the relevant software.

10.3 The Customer acknowledges that all Intellectual Property Rights in or relating to software and to the Managed Supply and all related documentation and work-in-progress are and shall remain the exclusive property of Cloud Boffins or in the case of Proprietary Software licensed by a Third Party licensor, the exclusive property of such licensor.

10.4 The licence of the Proprietary Software and the Customer's rights to use the Managed Supply are subject to the following restrictions:

10.4.1 the licence is only for the use of the object code versions of the Proprietary Software;

10.4.2 the Managed Supply shall be used only for the purposes of the Customer's own internal business and for the benefit of consultants who are engaged full time in working for the Customer and the Customer's employees;

10.4.3 the Customer shall not use the Managed Supply or the Proprietary Software for a purpose for which it was not designed;

10.4.4 the Customer shall not assign, sub-licence, charge or otherwise dispose of or grant rights over or out of the licence hereby granted or the Managed Supply or the Proprietary Software and shall not attempt to do any such thing;

10.4.5 the Customer shall not attempt to ascertain, read or list the source programs or Source Code of the Proprietary Software; and

10.4.6 the Customer shall not decompile or translate the Proprietary Software into any other computer language nor attempt so to do.

10.5 The Customer agrees not to use the Managed Supply, the Proprietary Software or any associated documentation save in accordance with the terms and conditions of this Agreement and the Choice of Service.

10.6 The Customer acknowledges and agrees that none of the acts which are prohibited by the provisions of this Agreement and a Choice of Service (including, without limitation, the prohibitions on copying or adapting the Proprietary Software or any part

for the purpose of correcting errors in the Proprietary Software) are necessary for the purposes of the use of the Proprietary Software by the Customer in accordance with its intended purpose or for the purposes of the use of the Proprietary Software in accordance with this licence.

10.7 As a condition precedent to Cloud Boffins' provision of the Managed Supply, the Customer accepts all appropriate software licences required to be entered into by the Customer to enable the Customer to use the Proprietary Software comprised within the Managed Supply.

10.8 For the avoidance of doubt, nothing in this Agreement or a Choice of Service shall restrict Cloud Boffins' ability to enter into similar agreements with other customers.

11. Payment Provisions

11.1 The Customer shall pay the sums due for the services indicated in a Choice of Service in the manner indicated in that Choice of Service. The Customer shall pay the Total Fee in accordance with this Agreement and the relevant Choice of Service.

11.2 The recurring fees are calculated as indicated in the relevant Choice of Service and in Clause 9.2, and may include Variables, Tie In Licence Fees and Third Party Costs.

11.3 The recurring fees (which may be based on Variables) payable pursuant to the Choice of Service at any point after the Term may be increased by Cloud Boffins. Cloud Boffins shall determine the level of the recurring fees payable after the Term and shall give not less than fourteen (14) days' notice of any increase in the recurring fees.
This Clause does not apply to any increase made under Clause 11.12.
Where the Customer does not accept an increase under this Clause, the Customer may terminate only the affected service, licence or subscription by giving notice in accordance with Clause 20.2.
The Customer shall be deemed to have accepted the increase unless notice of termination is given before the increase takes effect. The remainder of the Agreement and all other services shall continue in full force.

11.4 For the avoidance of doubt the recurring fees payable pursuant to the Choice of Service are payable even where it is shown that there is a Failure in the Managed Supply where that Failure has not been notified by the Customer or Cloud Boffins (including where there is a non-functioning agent or a fault in an agent residing on a licensed personal computer of the Customer).

11.5 All sums payable under this Agreement and the Choice of Service are given exclusive of value added tax and any other similar tax or sales tax which shall be paid by the Customer in addition at the rate prevailing as at the date of invoice.

11.6 Unless otherwise stated, the Customer shall pay to Cloud Boffins the sums set out in each invoice within fourteen (14) days of the date of the invoice. Time for payment shall be of the essence. Without prejudice to the foregoing and as a condition precedent to the supply of the Managed Supply, Cloud Boffins requires the Customer to enter into a bank direct debit, credit card or debit card arrangement before supplying the Managed Supply.

11.7 Cloud Boffins shall be entitled to charge simple interest to the Customer on any sums, fees or other charges payable pursuant to this Agreement or the Choice of Service which are not paid on the due date and any such interest shall be charged (as well after as before a judgment) at the rate of eight per cent (8%) per annum above the base rate of Barclays Bank plc from time to time subsisting: such interest to accrue on a daily basis.

11.8 If the Customer fails to pay any of the Total Fee, Third Party Costs, Tie In Licence Fees or any other sums due under this Agreement or a Choice of Service on the due date, or does not comply with an obligation imposed upon the Customer under this Agreement or a Choice of Service, or where a Termination Event occurs then, without prejudice to any other right or remedy available to Cloud Boffins, Cloud Boffins shall be entitled to:

11.8.1 withhold the supply of the Managed Supply, Support Services, Third Party services, licences, subscriptions and any other services to be provided to the Customer by or on behalf of Cloud Boffins until such payment is made;

11.8.2 suspend the performance of any obligation owed by Cloud Boffins under this Agreement or a Choice of Service, including access to any Third Party service, licence or subscription, until such payment is made;

11.8.3 require payment in full in advance by the Customer for the provision of the continued Managed Supply, Support Services, Third Party services, licences, subscriptions and any other services which Cloud Boffins agrees to supply before supplying the same;

11.9 The Customer shall not be entitled to make a set-off or counterclaim or claim a lien in respect of any monies owed by the Customer and shall pay all amounts due to Cloud Boffins under or further to this Agreement or a Choice of Service without making a deduction of any kind.

11.10 Without prejudice to any other right or remedy, Cloud Boffins can levy reasonable charges on the Customer where the Customer fails to pay any sums, fees or other charges payable pursuant to this Agreement on the due date.

11.11 Where Cloud Boffins incurs or becomes liable to pay any Third Party Costs, the Customer shall pay such Third Party Costs to Cloud Boffins immediately upon invoice. Cloud Boffins may invoice such Third Party Costs as soon as Cloud Boffins is notified of them, incurs them or becomes liable for them, whichever occurs first.

11.12 Cloud Boffins may increase any fees, charges, rates or prices immediately and without prior notice where such increase is caused by, or connected with, any increase in costs, charges, rates, prices, taxes, exchange rates, licence fees, subscription fees or other amounts imposed by a Third Party. Cloud Boffins shall use reasonable endeavours to notify the Customer of such increase, but failure to give notice before the increase takes effect shall not affect the Customer’s obligation to pay the increased amount.

11.13 The Customer acknowledges that certain Third Party licences, subscriptions and services may be subject to committed terms, minimum periods, cancellation restrictions, auto-renewal provisions or supplier-specific terms. The Customer shall be liable for all charges arising from such committed terms, minimum periods,

cancellation restrictions, auto-renewal provisions or supplier-specific terms whether or not the Customer continues to use the relevant service.

11.14 Unless expressly agreed otherwise in writing by Cloud Boffins, fees paid or payable for Third Party services, licences, subscriptions, committed terms, minimum periods or Tie In Licences are non-refundable. No refund or credit shall be due for any unused period following suspension, cancellation or termination except to the extent that Cloud Boffins actually receives a corresponding refund or credit from the relevant Third Party supplier.

11.15 If any payment is not received by the due date, Cloud Boffins may immediately cancel, suspend, downgrade or terminate any Third Party service, licence or subscription supplied to or for the Customer without notice. The Customer shall remain liable for all outstanding sums, Third Party Costs, Tie In Licence Fees and any charges arising as a result of such cancellation, suspension, downgrade or termination.

11.16 Where any service, licence or subscription is subject to a committed term (including but not limited to annual or fixed-term licences), the Customer shall remain liable for all charges for the full committed term irrespective of:

- cancellation by the Customer;
- suspension or termination by Cloud Boffins;
- non-use of the service; or
- early termination for any reason.

The full outstanding balance for the remainder of the committed term shall become immediately due and payable upon termination or cancellation.

The committed term of any licence or subscription shall apply independently of the Term of this Agreement.

12. Support Services

12.1 Subject to the payment by the Customer to Cloud Boffins of the Total Fee, Cloud Boffins shall provide the Customer with the Support Services set out in Clause 12.2.

12.2 During the term of this Agreement and in consideration of the fees payable pursuant to this Agreement and the Choice of Service continuing to be paid by the Customer to Cloud Boffins, Cloud Boffins shall:

12.2.1 use reasonable endeavours to provide workarounds in respect of faults appearing in the Managed Supply;

12.2.2 use reasonable endeavours to rectify failures in the Managed Supply; and

12.2.3 provide a telephone helpdesk and an email mechanism to assist with the rectification of faults during the Standard Support Hours.

12.3 The obligations contained in Clause 12.2 above shall not apply if any fault or failure is caused by (i) the use of the Managed Supply contrary to Cloud Boffins' instructions or for a purpose for which it was not designed, or (ii) the use of any software contrary to the licensor's instructions or (iii) due to modification or alteration of the Proprietary Software by any person other than the licensor or a contractor or agent duly authorised by the licensor or (iv) the failure or unavailability (including without limitation planned maintenance) of a Third Party computer related system used by the Customer and with which the Managed Supply is dependent. Where Cloud Boffins undertakes work towards the investigation or rectification of a fault or failure in such circumstances, Cloud Boffins shall be entitled to levy Additional Charges on the Customer for the same.

12.4 This Clause 12.4 shall apply to the extent that the Managed Supply is dependent upon any Proprietary Software or any other Third Party software or services including any open source software. Save as provided for in Clauses 12.2 and 12.3, where Cloud Boffins determines that a fault with the Managed Supply or the Support Services reported by the Customer is due to a fault with or the unavailability of such Third Party software or services (including without limitation planned and unplanned maintenance by the Third Party of that Third Party software or services) (in any such case, a "Third Party Fault"), Cloud Boffins shall be entitled to levy Additional Charges on the Customer for any work undertaken by Cloud Boffins associated with that determination and any associated rectification of that Third Party Fault.

12.5 The Customer shall promptly report all faults in the Managed Supply or which are covered by the Support Services of which the Customer becomes aware.

12.6 Notwithstanding the provisions set out elsewhere in this Agreement or a Choice of Service, Cloud Boffins:

12.6.1 does not warrant that the Customer's use of the Managed Supply and any software (including the Proprietary Software) will be uninterrupted or error-free;

12.6.2 is not responsible for any delays, delivery failures, downtime, connection speeds, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Managed Supply and any other service provided by Cloud Boffins that require an internet connection may be subject to limitations, delays and other problems inherent in the use of such communications networks and facilities; and

12.6.3 is not responsible for the Customer's internet connectivity, bandwidth or speed of connection with the internet and the Customer is solely responsible for the same.

12.7 Where an upgrade of the Managed Supply is available, Cloud Boffins shall use reasonable endeavours to make that upgrade available as soon as reasonably practicable. The upgrade may be delivered to a licensed personal computer of the Customer when the same is first logged in to the Managed Supply after Cloud Boffins has made the upgrade available.

12.8 Cloud Boffins shall not be responsible for the supply, licence and continuing compatibility of the Third Party software used by the Customer and residing on the

licensed personal computer of the Customer with which the Managed Supply operates including the relevant operating system software used by the Customer.

12.9 Where any training is to be provided by Cloud Boffins, that shall be as so specified in a Choice of Service.

13. Security Measures

Cloud Boffins provides appropriate technical and organisational measures and procedures regarding the security of the Customer Data. Where the Customer wishes Cloud Boffins to provide greater measures and procedures than the foregoing, Cloud Boffins shall, where it is reasonably able to do so and following the Customer's express written request, provide those greater measures and procedures, for which Cloud Boffins may levy Additional Charges.

14. Customer Obligations

14.1 The Customer is solely responsible for:

14.1.1 any device, hardware or telecommunications facility or link and for keeping the same in good working order;

14.1.2 ensuring that the Managed Supply as described in each Choice of Service meets the needs of the Customer's business; and

14.1.3 procuring and maintaining the network connections and links from its systems to the internet;

14.1.4 the connectivity via the internet to Cloud Boffins' suppliers;

14.1.5 rectification of all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to bandwidth, network connections or telecommunications links; and

14.1.6 rectification of all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the internet or lack of connectivity with the internet.

14.2 The Customer shall:

14.2.1 grant Cloud Boffins all necessary access to such information, data and internet connectivity as may be required by Cloud Boffins in order to provide the Managed Supply;

14.2.2 comply with all applicable laws and regulations with respect to its activities under this Agreement and the Choice of Service and follow all lawful and reasonable instructions and directions given by Cloud Boffins from time to time in relation to the use of the Managed Supply;

14.2.3 ensure that its network and systems comply with the reasonable specifications provided by Cloud Boffins from time to time;

14.2.4 ensure that it notifies Cloud Boffins as soon as it becomes aware of the Managed Supply or the Proprietary Software not operating correctly; and

14.2.5 where relevant, co-operates with and provides facilities to Cloud Boffins as required by Cloud Boffins so as to enable Cloud Boffins to perform the Managed Supply and the Support Services remotely.

14.3 Where Cloud Boffins, or its staff or subcontractors are delayed or impeded or obliged to spend additional time or incur additional expenses in the performance of any of Cloud Boffins' obligations under this Agreement or a Choice of Service by reason of an act or omission of the Customer or any staff, subcontractors or Users of the Customer, then the Customer shall pay Cloud Boffins Additional Charges incurred by Cloud Boffins and any timetable agreed for the performance by Cloud Boffins of any of its obligations may be extended accordingly by Cloud Boffins, acting reasonably.

15. Customer Data and Data Protection

15.1 The Customer shall own all rights, title and interest in and to all of the Customer Data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data and for ensuring that the Customer Data does not contain Objectionable material or content.

15.2 The Customer is solely responsible for the maintenance of back-ups of the Customer Data and for ensuring that suitable and sufficient back-ups are maintained..

15.3 Notwithstanding the provisions of Clause 15.2, Cloud Boffins will use its reasonable endeavours to ensure that the relevant Third Party supplier of Cloud Boffins provides the back-up service where Cloud Boffins has agreed to supply the same as part of the Customer's Choice of Service.

15.4 In the event of any loss or damage to Customer Data, Cloud Boffins shall, at the request of the Customer, use reasonable endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data available to Cloud Boffins. Cloud Boffins shall be entitled to levy Additional Charges for so doing.

15.5 The processing of Personal Data by Cloud Boffins as Data Processor shall be subject to the terms of Schedule 1 to this Agreement (Data Processing Agreement), which forms part of this Agreement.

16. Managed Supply

16.1 Notwithstanding the provisions of Clause 9, Cloud Boffins shall be entitled, in its sole discretion, to alter, improve or otherwise modify the Managed Supply at any time provided that any such change shall not be detrimental to the Customer to a significant extent.

16.2 Where the Customer informs Cloud Boffins that the Managed Supply is unavailable, Cloud Boffins shall, to the extent that Cloud Boffins is responsible for the unavailability as soon as reasonably practicable restore the provision of the Managed Supply.

16.3 Where the Managed Supply is unavailable or interrupted through the fault of any Third Party or because of any change in Third Party hardware, software or systems with which the Managed Supply is reliant or interacts, Cloud Boffins shall bear no responsibility or liability, but shall at the Customer's request and expense use Cloud Boffins' reasonable endeavours to assist in recovering the availability of the Managed Supply and to restore it to an operable state, as Additional Services for which Cloud Boffins shall be entitled to levy Additional Charges.

17. Customer Staff

17.1 Cloud Boffins reserves the right to refuse to provide the Managed Supply or any Maintenance Services to the Customer, if in Cloud Boffins' reasonable opinion any member of staff or subcontractor of the Customer or a User is abusive to Cloud Boffins' staff or subcontractors.

18. Confidentiality

18.1 In this Clause 18, **'Confidential Information'** means all information, whether technical or commercial (including this Agreement and the Choice of Service and whether disclosed in writing, on disc, orally or by inspection between the Parties), where the information is:

18.1.1 identified as confidential at the time of disclosure; or

18.1.2 ought reasonably to be considered confidential given the nature of the information or the circumstances of disclosure.

Notwithstanding the above, Confidential Information includes in the case of information belonging to Cloud Boffins (or, as the case may be the licensor of the Proprietary Software), information as to the operation of the business of Cloud Boffins and information relating to the Source Code and structure of the Managed Supply and any Proprietary Software.

18.2 Each Party shall protect the Confidential Information of the other Party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.

18.3 Confidential Information may be disclosed by the receiving Party to its employees, affiliates and professional advisers, provided that the receiving Party ensures that the recipient employee, affiliate or professional adviser is bound in writing to maintain the confidentiality of the Confidential Information received.

18.4 The obligations set out in this Clause 18 shall not apply to Confidential Information which the receiving Party can demonstrate:

18.4.1 is or has become publicly known other than through breach of this Clause 18;

18.4.2 was in possession of the receiving Party prior to disclosure by the other Party;

18.4.3 was received by the receiving Party from a Third Party who has full right of disclosure;

18.4.4 is required to be disclosed by a governmental authority or regulatory body, provided that the Party subject to such requirement to disclose gives the other Party written notice of the requirement as soon as reasonably possible.

19. Limitation of Remedies and Liability

19.1 Save as expressly provided in this Agreement or a Choice of Service to the contrary all terms, conditions and warranties imposed on Cloud Boffins and implied by statute, common law or otherwise howsoever arising and relating to the Managed Supply, the Support Services or any other services supplied pursuant to this Agreement or a Choice of Service are excluded to the maximum extent permissible by law.

19.2 Cloud Boffins' charges to the Customer are determined on the basis of the exclusions from and limitations of liability contained in this Agreement and the Choice of Service. The Customer expressly agrees that these exclusions and limitations are reasonable because of (amongst other matters) the possibility that otherwise the amount of damages awardable to the Customer for a breach by Cloud Boffins of this Agreement or a Choice of Service may be disproportionately greater than the price of the Managed Supply.

Cloud Boffins is willing to arrange for additional insurance cover to enable Cloud Boffins to take on the burden of additional liability to the Customer provided that the Customer pays Cloud Boffins a commensurately higher price for the Managed Supply. If the Customer wishes Cloud Boffins to obtain a quotation for such additional insurance cover the Customer shall notify Cloud Boffins accordingly prior to this Agreement or the relevant Choice of Service being entered into.

19.3 The following provisions in this Clause 19 set out Cloud Boffins' entire liability (including any liability for the acts and omissions of its employees, agents or sub-contractors) to the Customer in respect of:

19.3.1 a breach of Cloud Boffins' contractual obligations

19.3.2 a tortious act or omission for which Cloud Boffins is liable; or

19.3.3 an action arising out of a misrepresentation by or on behalf of Cloud Boffins; arising in connection with the performance or contemplated performance of this Agreement or a Choice of Service or out of an act done or omission made as a consequence of the entry into by Cloud Boffins of this Agreement or a Choice of Service.

19.4 The total liability which Cloud Boffins shall owe to the Customer and in respect of all claims howsoever arising shall not exceed the sum of fifteen thousand pounds (£15,000).

19.5 Where the claim from the Customer and a claim from one or more other customers of Cloud Boffins is attributable to the same act, error or omission or series of acts, errors or omissions consequent upon or attributable to the same original cause, the total liability which Cloud Boffins shall owe to the Customer and in respect of all claims howsoever arising shall not exceed the sum of fifteen thousand pounds (£15,000) divided by N + 1. In the previous sentence, "N" means the number of other customers making a claim against Cloud Boffins where the claim is attributable to the same act, error or omission or series of acts, errors or omissions consequent upon or

attributable to the same original cause of the claim brought by the Customer. Where this Clause 19.5 applies, this limitation shall supersede the limitation stated in Clause 19.4 above.

19.6 Cloud Boffins shall in no circumstances be liable to the Customer for any Consequential Loss, howsoever arising. Cloud Boffins shall in no circumstances be liable to the Customer for any wasted expenditure, howsoever arising.

19.7 Cloud Boffins shall in no circumstances be liable to the Customer for any indirect loss, howsoever arising.

19.8 Save in respect of a breach of the provisions of Clause 15.3, Cloud Boffins shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data, howsoever arising.

19.9 The Customer shall only be entitled to bring a claim against Cloud Boffins where the Customer issues legal proceedings against Cloud Boffins within the period of twelve (12) months commencing on the date upon which the Customer ought reasonably to have known of its entitlement to bring such a claim.

19.10 The exclusions from and limitations of liability referred to in this Clause 19 do not apply so as to exclude or limit Cloud Boffins' liability to the Customer for:

19.10.1 death or personal injury resulting from the negligence of Cloud Boffins, its employees, agents or sub-contractors;

19.10.2 breach of Cloud Boffins' implied undertaking (if any) as to title or the warranty (if any) as to quiet possession implied by law or statute;

19.10.3 damage for which Cloud Boffins is liable to the Customer under part I of the Consumer Protection Act 1987 where the Customer acts as a consumer pursuant to that Act; or

19.10.4 fraud;

save that nothing in this Clause 19 shall confer a right or remedy upon the Customer to which the Customer would not otherwise be entitled.

19.11 The exclusions from and limitations of liability set out in this Clause 19 shall be considered severably. The invalidity or unenforceability of any part of this Clause 19 shall not affect the validity or enforceability of any other part of this Clause 19.

20. Termination

20.1 Cloud Boffins shall be entitled to terminate such or all of the Choice of Service as Cloud Boffins may specify at any time by giving not less than thirty (30) days' notice so to do.

20.2 The Customer shall be entitled to terminate this Agreement together with all Choice of Service at any time by giving not less than one month's notice so to do: provided always that such notice shall be expressed to take effect on a Monthly Renewal Date and provided further that where the Term exceeds one month the Customer may not terminate this Agreement until a Monthly Renewal Date on or after the expiry of the

Term.

20.3 Where a Termination Event occurs, Cloud Boffins may by written notice given to the Customer at any time thereafter, terminate this Agreement together with such or all of the Choice of Service as Cloud Boffins may specify. Where the Termination Event relates to non-payment, Cloud Boffins may terminate immediately without giving any further period for remedy.

20.4 Without prejudice to Clause 11.15 or any other right or remedy available to Cloud Boffins, Cloud Boffins may immediately terminate, cancel, suspend or cease providing any Third Party service, licence, subscription or Tie In Licence if the Customer fails to pay any amount due on the due date, if Cloud Boffins is required to do so by a Third Party supplier, or if continuing to provide that service would cause Cloud Boffins to incur further liability to a Third Party supplier.

21. Consequences of Termination

21.1 Any termination of this Agreement or a Choice of Service shall be without prejudice to the rights, duties and remedies of either Party accrued prior to termination or to the rights, duties and remedies of either Party in respect of a non-terminating Choice of Service (including the right for Cloud Boffins to be paid for any work done to the date of termination on a quantum meruit basis).

21.2 The following provisions shall survive any termination, however arising, of this Agreement: Clauses 1, 2, 4, 5, 6.3, 6.4, 8, 10, 11, 14, 15.1, 15.2, 17 to 31 (inclusive).

21.3 On any termination of this Agreement or any relevant Choice of Service, however arising, (i) Cloud Boffins shall use reasonable efforts to terminate any Tie In Licence on the earliest date on which Cloud Boffins is reasonably able to do so without a penalty, unless immediate termination is required under Clause 11.15 or Clause 20.4; and (ii) the Customer shall be immediately liable to pay Cloud Boffins for the balance of any Tie In Licence Fees, Third Party Costs, committed term charges, minimum period charges, cancellation charges, early termination fees, supplier penalties, clawbacks or other amounts imposed on or payable by Cloud Boffins in connection with the relevant Tie In Licence, Third Party service, licence or subscription. For the avoidance of doubt, such obligation to pay shall subsist irrespective of whether the Customer intends to continue to use the Tie In Licence, Third Party service, licence or subscription.
For the avoidance of doubt, where any licence or subscription is subject to a committed term, the Customer shall be liable for the full remaining charges for that committed term, which shall become immediately due and payable upon termination, cancellation or suspension.

21.4 The Customer’s licence to use the Managed Supply and all associated licences, subscriptions and Third Party services shall terminate forthwith upon any termination however arising of this Agreement or the relevant Choice of Service under which the Managed Supply is supplied, subject always to the Customer’s continuing obligation to pay all outstanding sums, Third Party Costs and Tie In Licence Fees.

22. Force Majeure

22.1 Any delay in or failure of performance of any obligation by either Party (save an obligation in respect of the payment of monies) shall not constitute a breach of such obligation but only to the extent that such a delay or failure is caused by an event which is not within the reasonable control of the Party otherwise in default and which such Party is unable to prevent or to circumvent by the exercise of reasonable diligence including without limitation an event such as a war, riot, civil commotion, fire, flood, earthquake, epidemic, inability or delay in obtaining supplies of adequate or suitable materials, strike, lock-out or other industrial action or trade dispute (whether or not involving the work force or a part of the work force of the Party otherwise in default).

22.2 The Party otherwise in default shall (a) take and continue to take all reasonable steps to circumvent and mitigate the effect of such event and to reduce any delay in the performance of such obligation and (b) give notice to the other Party of such event as soon as reasonably practicable.

23. Notices

23.1 All notices between the Parties relating to this Agreement or a Choice of Service shall be in writing and may be sent by pre-paid first class post, express air mail or by email.

23.2 All such notices shall be deemed to have been served:

23.2.1 if sent by pre-paid first class post, two Business Days after posting (exclusive of the day of posting);

23.2.2 if sent by pre-paid air mail post shall be deemed to be served on the seventh day following the day of posting; or

23.2.3 if sent by email on a Business Day prior to 5.00 p.m., at the time of error-free transmission and if after 5.00 p.m. on the next Business Day after error-free transmission.

23.3 Any notice for Cloud Boffins may be addressed to its registered office at the relevant time or to the following email address: support@cloudboffins.com . Any notice to the Customer may be addressed in the case of a company, sole trader or partnership to its registered office, principal place of business or its address stated in this Agreement or to the email address which has been used by the Customer for most of its prior e-mail correspondence with Cloud Boffins (or such other address or e-mail as may have been notified in writing by the Customer expressly for such purpose from time to time).

24. Publicity

24.1 Notwithstanding the provisions of Clause 18, Cloud Boffins may, acting reasonably, publicise the existence of this Agreement or a Choice of Service.

25. Dispute Resolution Procedure

25.1 If a dispute arises out of or in connection with this Agreement or a Choice of Service or the performance, validity or enforceability of it (a “Dispute”) then the Parties shall follow the dispute resolution procedure set out in this Clause 25.

25.2 Either Party shall give to the other written notice of the Dispute, setting out its nature and reasonable particulars (a “Dispute Notice”), together with reasonable supporting documentation. On service of the Dispute Notice, a director of Cloud Boffins and the Representative shall attempt in good faith to resolve the Dispute.

25.3 If the persons appointed in accordance with Clause 25.2 are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to, a director of Cloud Boffins and a director of the Customer in attempt in good faith to resolve it.

25.4 If the persons appointed in accordance with Clause 25.3 are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, the Parties shall, before initiating court proceedings, attempt to settle the Dispute by mediation in accordance with the CEDR (Centre for Effective Dispute Resolution) Model Mediation Procedure. Either Party may initiate mediation by giving written notice to the other. Unless the Parties agree otherwise, the mediator shall be nominated by CEDR. The mediation shall take place in England and the costs of the mediator shall be shared equally between the Parties unless the mediator otherwise directs. Nothing in this Clause shall prevent either Party from applying to a court for urgent interim relief. If the Dispute is not resolved within sixty (60) days of the appointment of the mediator, or such longer period as the Parties may agree in writing, either Party shall be entitled to take such further steps as it considers appropriate, including the initiation of court proceedings.

25.5 If the Dispute is not resolved through mediation in accordance with Clause 25.4, either Party shall be entitled to take such further steps as it considers appropriate to resolve the Dispute, including the initiation of court proceedings.

26. Assignment and Sub-Contracting

26.1 Neither Party may assign or transfer any of its rights or obligations under this Agreement or a Choice of Service without the prior written consent of other Party, such consent not to be unreasonably withheld or delayed. Cloud Boffins shall be free to assign the whole of this Agreement or a Choice of Service as part of the transfer of the whole or a substantial part of its business.

26.2 Cloud Boffins shall be free to sub-contract its rights and obligations under this Agreement or a Choice of Service as it in its discretion sees fit, subject to any appointed sub-contractor entering into provisions relating to confidentiality and data protection with Cloud Boffins which are no less onerous than the provisions set out in this Agreement and the relevant Choice of Service. Cloud Boffins shall be liable to the Customer for the acts and omissions of its sub-contractors.

27. Entire Agreement

27.1 This Agreement together with the Choice of Service and any other documents referred to in them constitutes the entire agreement between the Parties regarding its subject matter and supersedes and replaces any and all prior agreements,

understandings or arrangements between the Parties, whether oral or in writing, with respect to the same, subject to the provisions of Clause 29.1.

27.2 The Parties acknowledge that in entering into this Agreement and the Choice of Service they have not relied upon any representations other than those reduced to writing in this Agreement or the Choice of Service. The provisions of this Clause 27.2 shall not apply to any fraudulent misrepresentation.

28. Third Party Rights

28.1 A Third Party who is not a Party to this Agreement or a Choice of Service shall have no right under the Contract (Rights of Third Parties) Act 1999 to enforce any provision of this Agreement or a Choice of Service.

29. Variation and Waiver

29.1 Cloud Boffins may amend these Terms and Conditions or a Choice of Service at any time by giving not less than fourteen (14) days' written notice to the Customer, such notice to be given in accordance with Clause 23 of this Agreement. The amended terms shall take effect on the date specified in the notice, which shall be no earlier than fourteen (14) days after the notice is given. If the Customer does not wish to accept any such amendment, the Customer may terminate this Agreement by giving notice in accordance with Clause 20.2 before the date on which the amendment is due to take effect, provided that the Customer's right to terminate under this Clause 29.1 shall not arise in respect of any amendment made pursuant to Clause 11.12 (Third Party cost pass-through) or any change required by applicable law or regulation. Where the Customer does not give notice of termination before the amendment takes effect, the Customer shall be deemed to have accepted the amended terms. For the avoidance of doubt, Clause 11 (Payment Provisions) and all provisions relating to Third Party Costs shall take precedence over this Clause and no amendment made under this Clause 29.1 shall affect any right or liability that has already accrued to either Party before the amendment takes effect.

29.2 Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.

29.3 Save in respect of a waiver recorded in writing, the failure of either Party at any time to enforce a provision of this Agreement shall not be deemed a waiver of such provision or of any other provision of this Agreement or of such Party’s right thereafter to enforce that or any provision of this Agreement.

30. Severance

30.1 The illegality, invalidity or unenforceability of any Clause of this Agreement will not affect the legality, validity or enforceability of the remainder. If any such Clause is found by any competent court or authority to be illegal, invalid or unenforceable the Parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

31. Governing Law and Jurisdiction

31.1 This Agreement and all the Choice of Service and any disputes or claims arising out of or in connection with them or their subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.

31.2 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 this Agreement and all the Choice of Service or its subject matter or formation (including non-contractual disputes or claims howsoever arising).

SCHEDULE 1 - DATA PROCESSING AGREEMENT

This Schedule forms part of the Agreement between Vanick Consultancy Services Ltd (trading as Cloud Boffins) ("Processor") and the Customer ("Controller") and takes effect on the Commencement Date.

1. Definitions

In this Schedule, terms defined in the main body of the Agreement have the same meanings. In addition:

"Processing" has the meaning given in the Data Protection Legislation.

"Sub-Processor" means any third party appointed by Cloud Boffins to process Personal Data on behalf of the Customer in connection with the Agreement.

"Standard Contractual Clauses" means the International Data Transfer Agreement (IDTA) or Addendum issued by the ICO, as applicable, or such other mechanism as may be approved under the Data Protection Legislation from time to time.

2. Scope and Role of the Parties

2.1 Cloud Boffins shall process Personal Data only on documented instructions from the Customer, which shall include the instructions set out in this Agreement and any relevant Choice of Service, unless Cloud Boffins is required to process the Personal Data by applicable law, in which case Cloud Boffins shall notify the Customer of that legal requirement before processing unless prohibited by law.

2.2 The details of the processing carried out by Cloud Boffins as Processor are set out in the Annex to this Schedule.

2.3 The Customer, as Data Controller, is responsible for ensuring that it has a lawful basis for the processing it instructs Cloud Boffins to carry out, and that it has provided all necessary notices to and obtained all necessary consents from data subjects as required by the Data Protection Legislation.

3. Confidentiality

3.1 Cloud Boffins shall ensure that persons authorised to process the Personal Data are subject to appropriate obligations of confidentiality, whether by contract or professional duty, and that access is limited to those who need it to fulfil Cloud Boffins' obligations under the Agreement.

4. Security

4.1 Cloud Boffins shall implement and maintain appropriate technical and organisational measures to protect the Personal Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure or access, taking into account:

- the state of the art and the costs of implementation;
- the nature, scope, context and purposes of the processing; and
- the risks to individuals of varying likelihood and severity.

4.2 Those measures shall include, as a minimum: access controls and authentication, encryption of Personal Data in transit, measures to ensure ongoing confidentiality and

integrity of processing systems, a process for regularly testing and evaluating those measures, and the ability to restore access to Personal Data in the event of an incident.

4.3 The Customer acknowledges that the specific technical and organisational measures in place at any time will depend on the nature of the Managed Supply agreed in the relevant Choice of Service. Cloud Boffins may update those measures over time, provided the level of protection is not materially reduced.

5. Sub-Processing

5.1 The Customer grants Cloud Boffins general written authorisation to appoint Sub-Processors. Cloud Boffins shall inform the Customer of any intended addition to or replacement of a Sub-Processor by providing not less than fourteen (14) days' prior written notice. If the Customer objects to the proposed Sub-Processor on reasonable data protection grounds, it shall notify Cloud Boffins in writing within that period and the Parties shall negotiate in good faith. If no agreement is reached, the Customer may terminate the affected part of the Managed Supply in accordance with the termination provisions of the Agreement.

5.2 Cloud Boffins shall ensure that any Sub-Processor is subject to data protection obligations that are no less protective than those imposed on Cloud Boffins under this Schedule.

5.3 Cloud Boffins shall remain liable to the Customer for the acts and omissions of its Sub-Processors to the same extent as if Cloud Boffins had carried out the processing itself, subject always to the limitations of liability set out in Clause 19 of the Agreement.

5.4 The Customer acknowledges that Cloud Boffins uses third-party providers including Microsoft Corporation (Microsoft 365 and Azure services), and other infrastructure and tooling providers, as Sub-Processors. Details of current Sub-Processors are available from Cloud Boffins on written request.

6. Data Subject Rights

6.1 Cloud Boffins shall, to the extent reasonably practicable and taking into account the nature of the processing, assist the Customer in fulfilling its obligations to respond to requests from data subjects exercising their rights under the Data Protection Legislation. Where Cloud Boffins receives a request directly from a data subject, it shall promptly forward that request to the Customer and shall not respond to the data subject directly unless instructed in writing to do so by the Customer.

6.2 Cloud Boffins shall be entitled to levy Additional Charges for any work carried out in connection with assisting the Customer to respond to data subject requests, beyond what is reasonably within Cloud Boffins' control or standard processes.

7. Assistance with Compliance Obligations

7.1 Taking into account the nature of the processing and the information available to Cloud Boffins, Cloud Boffins shall provide reasonable assistance to the Customer with:

- carrying out data protection impact assessments where required by Article 35 of the UK GDPR;
- prior consultation with the Information Commissioner's Office where required by Article 36 of the UK GDPR; and

- any other obligations of the Customer as Data Controller under the Data Protection Legislation, to the extent that those obligations relate to the processing carried out by Cloud Boffins.

7.2 Cloud Boffins shall be entitled to levy Additional Charges for any assistance provided under this Clause 7.1 beyond what falls within its standard processes.

8. Personal Data Breaches

8.1 Cloud Boffins shall notify the Customer without undue delay, and in any event within forty-eight (48) hours, after becoming aware of a Personal Data Breach affecting the Customer's Personal Data. The notification shall include, to the extent available at that time:

- a description of the nature of the breach, including where possible the categories and approximate number of data subjects and records affected;
- the name and contact details of Cloud Boffins' data protection contact;
- a description of the likely consequences of the breach; and
- a description of the measures taken or proposed to address the breach.

8.2 The Customer is responsible for notifying the ICO and affected data subjects where required by the Data Protection Legislation. Cloud Boffins shall provide such further information as is reasonably available to it to assist the Customer in that notification.

8.3 Cloud Boffins shall not make any public statement or notification to third parties about a Personal Data Breach affecting the Customer's Personal Data without the Customer's prior written consent, unless required to do so by applicable law.

9. Transfers Outside the UK

9.1 Cloud Boffins shall not transfer Personal Data to a country outside the United Kingdom unless one of the following conditions is met:

- the transfer is to a country that has received an adequacy decision from the UK Secretary of State;
- the transfer is subject to appropriate safeguards recognised under the Data Protection Legislation, including the IDTA or equivalent approved mechanism; or
- one of the derogations set out in Article 49 of the UK GDPR applies.

9.2 Where Cloud Boffins transfers Personal Data to a Sub-Processor outside the UK, it shall ensure that the transfer is subject to appropriate safeguards in accordance with this Clause 9.

10. Audit Rights

10.1 Cloud Boffins shall, on not less than thirty (30) days' prior written notice from the Customer, make available to the Customer all information reasonably necessary to demonstrate compliance with the obligations set out in this Schedule.

10.2 Cloud Boffins shall permit the Customer, or an independent auditor appointed by the Customer and approved by Cloud Boffins (such approval not to be unreasonably withheld), to carry out audits or inspections of Cloud Boffins' processing activities relating to the Personal Data, no more than once per calendar year, at the Customer's cost and expense. Any such audit shall be conducted during Business Hours, with minimum disruption to Cloud

Boffins' operations, and subject to the Customer or its auditor entering into a confidentiality agreement with Cloud Boffins before the audit takes place.

10.3 Cloud Boffins may satisfy its obligations under Clause 10.1 by providing the Customer with up-to-date third-party audit reports, certifications or summaries (such as ISO 27001 certification or equivalent) in lieu of permitting a Customer-specific audit, where Cloud Boffins considers this appropriate.

11. Deletion and Return of Personal Data

11.1 On termination of the Agreement or on the written request of the Customer, Cloud Boffins shall, at the Customer's option and within a reasonable time:

- return all Personal Data to the Customer in a commonly used and machine-readable format; or
- securely delete or destroy all Personal Data in its possession or control.

11.2 Cloud Boffins shall confirm in writing to the Customer once deletion or return has been completed. Cloud Boffins may retain Personal Data where it is required to do so by applicable law, in which case it shall notify the Customer and continue to protect the retained data in accordance with this Schedule.

11.3 Cloud Boffins shall be entitled to levy Additional Charges for any work carried out in connection with the return or deletion of Personal Data beyond its standard processes.

12. Relationship with the Main Agreement

12.1 In the event of any conflict between this Schedule and the main body of the Agreement with respect to the processing of Personal Data, this Schedule shall prevail.

12.2 The limitations of liability set out in Clause 19 of the Agreement apply to any liability of Cloud Boffins arising under or in connection with this Schedule.

Annex to Schedule 1 - Details of Processing

Item	Detail
Subject matter of processing	The provision of managed IT services, including endpoint management, cloud service management, email and identity management, security monitoring and support services, as set out in the relevant Choice of Service.
Duration of processing	For the duration of the Agreement and for such further period as is required for Cloud Boffins to comply with its legal obligations or complete deletion or return under Clause 11 of this Schedule.
Nature of processing	Storage, access, transmission, configuration, monitoring, backup (where included in the Choice of Service), and technical support activities carried out in connection with the Managed Supply.
Purpose of processing	To deliver the Managed Supply and Support Services to the Customer in accordance with the Agreement and the relevant Choice of Service.
Types of Personal Data	May include: names, email addresses, job titles, device identifiers, authentication credentials (in encrypted or hashed form), usage and access logs, and such other data as is processed by the Customer's systems in connection with the Managed Supply.
Categories of data subjects	The Customer's employees, contractors, users and (where applicable) the Customer's own clients, to the extent that their Personal Data is processed in connection with the Managed Supply.
Special category data	Cloud Boffins does not intentionally process special category data. The Customer shall not transfer special category data to Cloud Boffins without prior written agreement and the implementation of appropriate additional safeguards.