

Terms and Conditions

Definitions

In this Agreement:

“Agreement” means the contract between Alphabyte and the Customer for the provision of the Services.

“Alphabyte” means Alphabyte Limited, incorporated and registered in England and Wales with company number 07014261 whose registered office is at 9-10 Connies House, Rhymney River Bridge Road, Cardiff, CF23 9AF;

“Applicable Law” means the laws of England and Wales (and any EU regulations from time-to-time applicable (i) whilst the United Kingdom remains a member of the European Union or (ii) subsequently under the terms of the European Union (Withdrawal) Bill);

“Contract” means this agreement.

“Controller” has the meaning set out in the Data Protection Legislation;

“Customer” means the person, firm or company who purchases Services from Alphabyte, set out in the signature block at the end of this document;

“Data” means digitally stored information, personal or otherwise, located within a Customer’s IT system or backup systems.

“Data Loss Event” means any event that results, or may result, in unauthorised access to Personal Data held by Alphabyte hereunder, and/or actual or potential loss and/or destruction of Personal Data in breach of the Clause 13, including any Personal Data Breach;

“Data Protection Legislation” means all applicable privacy or data protection laws and regulations (as amended, consolidated or re-enacted from time-to-time) which relate to the protection of individuals with regards to the processing of personal data to which a party is subject, including the Data Protection Act 1998 (as may be superseded) and GDPR (on and from 25 May 2018) for as long as any of the above are incorporated into Applicable Law together with any guidance and/or codes of practice issued from time-to-time by the Information Commissioner;

“Data Subject” has the meaning set out in the Data Protection Legislation;

“Data Subject Access Request” means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

“EEA” means the European Economic Area;

“GDPR” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and repealing Directive 95/46/EC (General Data Protection Regulation) OJ L 119/1, 4.5.2016;

“Monthly Tariff” means the fixed monthly fee which is payable by the Customer to Alphabyte as advised by Alphabyte to the Customer

“Personal Data” has the meaning set out in the Data Protection Legislation and includes (but is not limited to) special categories of personal data which reveal racial or ethnic origin, political opinions, religious or philosophical beliefs, sex, sexual orientation, trade union membership or the processing of genetic or biometric data, for the purpose of uniquely identifying a natural person;

“Personal Data Breach” has the meaning set out in the Data Protection Legislation;

“Processor” has the meaning set out in the Data Protection Legislation;

“Security Measures” means appropriate technical and organisational measures which are set out in the service description (or other relevant documentation available) for the relevant products or services provided by the Processor;

“Services” means any Services provided by Alphabyte to the Customer.

“Services Schedule” means the Schedule outlining Services provided by Alphabyte to the Customer.

“Support Service” means the technical support provided under either the Unlimited Remote IT Support service or On-Site Support service.

“Sub-processor” means any third party appointed to process Personal Data on behalf of Alphabyte related to the Original Agreement.

“User” means an individual employed or contracted by the Customer who frequently uses the Customer’s IT systems for their work;

A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of amendment, extension, or re-enactment and includes subordinate legislation for the time being in force made under it.

1. Services Agreement & Term

- 1.1 **This Agreement shall be for the initial period in the Services Schedule and after that, it shall continue in force until it is terminated by either the Customer or Alphabyte by giving 90 days’ notice to the other, such notice to begin on the first day of the month;**
- 1.2 Alphabyte will provide Services to the Customer subject to this Agreement. Any changes or additions to this Agreement must be agreed in writing by an authorised representative of Alphabyte.
- 1.3 The Services shall be provided in accordance with Alphabyte’s current website or other published literature relating to the Services from time to time, subject to this Agreement. Alphabyte may correct any typographical or other errors or omissions in any brochure, promotional literature, quotation or other document relating to the provision of the Services without any liability to the Customer.
- 1.4 Alphabyte may at any time without notifying the Customer make any changes to the Services which are necessary to comply with any applicable statutory requirements, or which do not materially affect the nature or quality of the Services.

2 Tariff & Payment

- 2.1 **Monthly Tariff: The Monthly Tariff is due and payable monthly by direct debit or standing order.** The Customer will be notified via e-mail of the exact amount and the date on which funds will be debited from the Customer’s nominated account. If this Agreement commences part way through a month then the first payment shall include the proportion of the Monthly Tariff payable for the part of the month, calculated on a pro-rata basis, together with an On Account payment equal to the Monthly Tariff for the first full month.
- 2.2 14 days before the Monthly Tariff is due for payment, an invoice will be delivered to the Customer in respect of charges for additional Services or adjustments for the previous month. These include any changes to support user count, hardware, software or project costs. These charges are due and payable by direct debit at the same time as the Monthly Tariff.
- 2.3 There will be an additional charge for any services provided which are not within the scope of the Services chosen by the Customer
- 2.4 All invoices delivered to the Customer will be treated as agreed unless the Customer notifies Alphabyte of any discrepancies within 7 days of the date of the invoices.
- 2.5 All charges quoted to the Customer for the provision of the Services shall be exclusive of VAT, for which the Customer shall be additionally liable at the prevailing rate.
- 2.6 Without prejudice to any other right or remedy that it may have, Alphabyte shall be entitled to charge the Customer interest at the rate of 4% per annum above HSBC Bank plc base rate from time to time on accounts in arrears for in excess of 30 days.
- 2.7 If the Customer fails to make payment by the due date then, without prejudice to any other right or remedy that it may have, Alphabyte shall be entitled to suspend all or part of the provision of Services to the Customer.
- 2.8 Alphabyte reserves the right to amend the cost of the provision of Services at any time by giving the Customer one month’s notice.
- 2.9 Payments received will be allocated against the oldest debt outstanding.

3 General Provisions

- 3.1 Alphabyte will not use the Customer’s name in publicity releases or advertising or be entitled to any production or other credit without securing the Customer’s prior written approval.
- 3.2 Alphabyte may assign this Agreement and its rights and obligations under this Agreement provided that it gives one month’s notice to the Customer.
- 3.3 The Customer may not assign its rights under this Agreement without the consent of Alphabyte.
- 3.4 This Agreement supersedes any agreements made or existing between the parties before this Agreement all of which shall be deemed to have been terminated by mutual consent with effect from the commencement of this Agreement but without prejudice to the rights and liabilities of the parties accrued before such date.
- 3.5 This Agreement constitutes the entire understanding between the parties in relation to the subject matter of this Agreement. Except as otherwise permitted by this Agreement no change to the terms of this Agreement shall be effective unless it is in writing and signed by or on behalf of both of the parties.

- 3.6 Any notice required or permitted to be given by either party to the other under this Agreement shall be in writing sent by post or email addressed to that other party at its registered office or usual place of business.
- 3.7 No failure or delay by either party in exercising any of its rights under this Agreement shall be deemed to be a waiver of that right, and no waiver by either party of any breach of this Agreement by the other shall be considered as a waiver of any subsequent breach of the same or any other provision.
- 3.8 If any provision of this Agreement is held by any court or other competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of this Agreement and the remainder of the provision in question shall not be affected.
- 3.9 This Agreement shall be governed by the laws of England and Wales and the Customer agrees to submit to the exclusive jurisdiction of the English Courts.
- 3.10 Alphabyte reserves the right to suspend all or part of the provision of Services to the Customer and to recover damages or to pursue any other remedy available to it in respect of any breach by the Customer of this Agreement.
- 3.11 Our staff will not deal with or speak to any caller who is abusive, or unpleasant, or who shouts or uses bad, inflammatory, sexist, racist or obscene language. When confronted with such a caller, our staff will immediately terminate the call, and if the same caller calls again, not take the call.

4 Information & Confidentiality

- 4.1 The Customer shall provide Alphabyte with all the information and support reasonably required by Alphabyte to provide the Services.
- 4.2 Alphabyte will treat all information received from the Customer as strictly confidential unless otherwise required by Applicable Law. The Customer acknowledges and agrees that Personal Data will be processed by and on behalf of Alphabyte in connection with the provision of the Services and Alphabyte confirms that it will comply with the provisions of the GDPR.

5 Unlimited Remote IT Support Service

- 5.1 The customer is entitled to the Unlimited Remote IT Support service if the service is selected in the Choice of Services form.

5.2 Commencement

- 5.2.1 Upon commencement of the Support Service, Alphabyte may at its discretion require a system audit prior to commencement of the Support Service Contract.
- 5.2.2 The Customer accepts responsibility for the status of their System prior to the involvement of Alphabyte.
- 5.2.3 Any deficiencies found during the system audit will be noted in the report produced and can be corrected or improved by Alphabyte for a fixed price.
- 5.2.4 If the Customer does not wish to adopt recommendations for improving aspects of the System or resolve deficiencies highlighted or if there are omissions in the information provided by the Customer during the system audit, Alphabyte retain the right to charge additional fees or impose reasonable limits on the Support provided for certain aspects of the System.
- 5.2.5 Commencement of the Support Services by the Customer will be deemed as acceptance of this agreement and therefore acceptance of what will be supported under the terms of the Contract.
- 5.2.6 The Support Service may include support for Roaming Computers / Users (usually laptops or mobile communications devices) that are regularly away from the Customer's Site. Such computers must be owned by the Customer and of a configuration that is consistent with the computers at the Customers Site. This configuration requires Roaming Computers to be within the Customer's domain architecture and having appropriate Antivirus software installed.
- 5.2.7 The Customer will be required to provide confirmation of all Software Licensing applicable to the System either at the commencement of the Contract or as required by Alphabyte during the Contract.
- 5.2.8 Upon commencement the Customer hereby agrees that they will not, in any manner, directly or indirectly, Solicit any person who is an employee of Alphabyte or any of its subsidiaries (or was an employee of Alphabyte or any of its subsidiaries at any time during the twelve month period prior to any such solicitation) and resign from offering any position of employment. This is in breach of trade connections, customer and supplier information and protects the legitimate business interest of Alphabyte. See "Solicitation and Enticement" for more details.

5.3 Delivery of Support

- 5.3.1 Alphabyte will use its reasonable endeavours to provide the Services within the Services Schedule.
- 5.3.2 Alphabyte will on reasonable request keep the Customer fully and properly informed on all aspects of the Services.
- 5.3.3 Alphabyte warrants to the Customer:

- 5.3.3.1 It has exercised and will continue to exercise in the performance of the Services and any advice given in relation to the supply of IT Equipment all the reasonable skill, care and diligence to be expected of a properly qualified and competent person experienced in carrying out the Services;
- 5.3.3.2 It will not use or disclose any confidential information which it may acquire in connection with or as a result of carrying out the Services, and
- 5.3.3.3 It will take all proper and necessary precautions to prevent such confidential information being acquired by unauthorised persons.
- 5.3.4 For the purpose of any call out, only working hours between 9am and 5pm in any working day will be counted in calculating the time taken by Alphabyte to respond to a request to provide Services.
- 5.3.5 The Support Service is delivered on a Specified User basis where a user is an employee or contractor of the Customer who requires use of any or all of the Customer's IT systems for their work
 - 5.3.5.1 Support can be delivered to the User only where the User is registered as such with Alphabyte
 - 5.3.5.2 User registration can be done in a method the Customer prefers, either manually (via phone or email), or automatically by Alphabyte from the Customer's IT systems.
 - 5.3.5.3 Support will not be provided to any individuals who are not registered as Users.
- 5.3.6 Alphabyte retains the right to install 3rd party software on the Customer's System to facilitate the remote connection and delivery of Support to the Customer. In accordance with this right:
 - 5.3.6.1 If at any stage following the commencement of the Contract the Customer refuses Alphabyte the right to install / use 3rd party software upon their System for the purposes stated in above clause, Alphabyte retains the right to revise any pricing previously agreed for the Contract or to terminate the Contract.
 - 5.3.6.2 The ownership of 3rd party software installed upon the Customer's System for the purpose stated above will remain vested in Alphabyte.
 - 5.3.6.3 The Customer can request that Alphabyte demonstrate and explain what 3rd party software it intends to install on the Customer's System and for what purpose it is intended.
- 5.3.7 Whilst working on incidents, Consultants will keep a record of the time they spend and the actions taken. This information will be logged in the Alphabyte Support case management system under the specific Customer's name.
- 5.3.8 No guarantees or commitments will be given regarding the length of time required for resolving individual incidents.
- 5.3.9 In providing Support Services, Consultants regularly refer to colleagues for help and advice with specific issues in order to resolve incidents as quickly as possible.
- 5.3.10 To ensure that incidents are resolved as quickly as possible and to reduce the reliance on individual Consultants, Alphabyte retain the right to allocate Consultants to incidents and actions within incidents as they see fit, depending on the skills, experience and availability of Consultants.
- 5.3.11 Alphabyte retains the right to decide whether Support Services will be delivered remotely or on site at all times.
- 5.3.12 The Customer accepts that whilst Alphabyte may advise on software licensing matters the Customer will be legally liable for maintaining, acquiring and proving that appropriate licensing agreements for all software in use on their IT System exists. Consequently, the Customer will be solely legally liable to pay any fees, fines or other costs associated with software licensing.
- 5.3.13 The customer will provide Alphabyte or its representative with unrestricted access to the System and will provide such further facilities and assistance as the representative may require carrying out the work. Alphabyte will not be liable for where its representative cannot provide Support Services as a result of the Customer failing to provide such facilities or assistance.
- 5.3.14 Alphabyte will require Administrator-level access to the System at all times.
- 5.3.15 Alphabyte retains the right to decide the appropriate course of action for each Incident and will follow the necessary troubleshooting steps in order to diagnose and then rectify the Incident.
- 5.3.16 Depending upon the nature of the Incident, Alphabyte may have to impose a workaround to rectify the Incident as opposed to a fix. Any workaround may be temporary prior to a permanent solution being instigated or permanent if the Customer decides not to proceed with a permanent fix.
- 5.3.17 A workaround may be of a technical nature or may involve changing a manual business process performed by the Customer.
- 5.3.18 Alphabyte will always aim to return the affected area of the System to an acceptable operational state, however depending on the nature of the problem this may not be possible without Changes to the System being made as in accordance with the Changes as described in 5.8.

5.4 Requesting Support

- 5.4.1 All requests for Support from the Customer should be raised in one of two ways: via telephone on 02920 022 100 or email to support@alphabyte.it

- 5.4.2 The Customer must inform Alphabyte of any incidents as soon as is practically possible. If there is a delay informing Alphabyte of obvious warning signs then the fault may grow and cause additional impact
- 5.4.3 Customers should not contact individual employees of Alphabyte for new support work as employees may be otherwise engaged, on holiday or otherwise not present to perform work.

5.5 Third Parties

- 5.5.1 From time to time, third parties will require access to the Customer's IT system to maintain and support their own products. Alphabyte will allow access to the Customer's IT system only with the prior permission from the Customer.
- 5.5.2 Alphabyte will maintain a list of third parties who are allowed access to the Customer's IT systems in order to allow fast access where required.
- 5.5.3 The Customer has a responsibility to let Alphabyte know when a third party no longer has permission to access a system.
- 5.5.4 The Customer is responsible for giving Alphabyte the authority to deal with 3rd party suppliers on behalf of the Customer. When such authority has not been provided, the Support Services that can be offered by Alphabyte may be limited.

5.6 Users

- 5.6.1 Access to the Customer's IT system is generally governed and controlled by user accounts.
- 5.6.2 The Customer has a responsibility to keep Alphabyte informed of user accounts which should be disabled, for example, when a member of staff has left or access should otherwise be restricted.
- 5.6.3 To ensure the correct users are active, Alphabyte will from time to time provide the Customer with a list of active users for the Customer to check.

5.7 Availability of Support

5.7.1 Standard working hours

- 5.7.1.1 Alphabyte's standard working Hours for the provision of remote Support services are 9:00 AM – 5.30 PM Monday to Friday (excluding public holidays) unless expressly stated otherwise in the Contract.
- 5.7.1.2 Alphabyte's standard working Hours for the provision of onsite Support services are 9.00 AM – 5.30 PM Monday to Friday (excluding public holidays) unless expressly stated otherwise in the Contract (Including 1 hour for lunch).
- 5.7.1.3 Consultants will work on varying shift patterns within the hours stated above. This means that individual Consultants do not necessarily work from 9.00 AM to 5.30 PM on a daily basis.

5.7.2 Out of Hours Periods

- 5.7.2.1 Alphabyte provide remote helpdesk Support during Out of Hours Periods which are the times beyond Alphabyte's standard working hours by pre-agreement only.
- 5.7.2.2 On-site Support will not be available during Out of Hours Periods unless explicitly stated by Alphabyte on request.
- 5.7.2.3 On-site Support during Out of Hours Periods will incur a fee at the current hourly rate.
- 5.7.2.4 The full breadth and depth of Alphabyte's technical skills and expertise will not be available during Out of Hours Periods. Consequently there may be instances when the on duty Consultant reaches the boundary of their experience causing Support Services to be suspended until other technical members of staff are available.
- 5.7.2.5 When other technical expertise and experience is required in relation to an Incident logged during an Out of Hours Period there is no guarantee that this will be available before the start of the next normal working day.
- 5.7.2.6 Planned maintenance (e.g. Server reboots) can be scheduled for Out of Hours Periods at no extra cost to customers with a Support Contract.
- 5.7.2.7 When a Customer has an Incident that is being worked upon during normal business hours that remains unresolved at 5.30PM Support will not continue in the Out of Hours Period by default.
- 5.7.2.8 The Customer can opt to pay for Support during Out of Hours Periods either by:
 - 5.7.2.8.1 Agreeing to a fixed fee as part of the overall contract cost in order to be able to log unlimited Out of Hours Support. The fixed fee will be stated in the Contract. Or;
 - 5.7.2.8.2 Agreeing to pay for Out of Hours Support on a pay as you go basis at an agreed hourly rate stated in the Contract.

- 5.7.2.9 When Out of Hours Support is requested on a pay as you go basis, the fees for Out of Hours Support will be invoiced in arrears as/when applicable as a separate line item in Alphabyte's Support invoices.
- 5.7.2.10 All Out of Hours Support incidents logged will be subject to a minimum billing period of 30 minutes, followed by subsequent billing periods of 30 minutes.
- 5.7.2.11 Alphabyte retains the right to revise the fees for Out of Hours Support from time to time and will notify Customers in advance in accordance with the guidelines stated in the Contract from time to time.
- 5.7.2.12 Minimum billing periods will apply when Support has been delivered for part thereof the billing period in question. (I.e. Up to 30 minutes of Support provision will result in a charge of 30 minutes of time. Between 30 and 60 minutes of Support will result in a charge of 1 hour of time etc.)

5.7.3 On-site Support

- 5.7.3.1 Alphabyte cannot guarantee that the remote connection to the Customer's System will always be available due to issues with the Customer's System or other external factors beyond the control of Alphabyte (e.g. Internet Service Provider problems).
- 5.7.3.2 When Remote Support cannot resolve the Incident and On-Site Support is required, the On-Site visit will be arranged for the soonest available point in time during Alphabyte's standard onsite Support Hours 09.00 AM – 5.30 PM Monday to Friday.
- 5.7.3.3 When an onsite visit is required, it will take place in accordance with the Response Times available within this agreement. Consequently, there is no guarantee that an onsite Support visit will commence immediately at the start of the next standard hours period (9.00AM).
- 5.7.3.4 On-site support will be chargeable at the hourly rate in the Services Schedule unless otherwise stated in writing or the On-Site support service is selected in the Choice of Services form.

5.8 Chargeable Services

- 5.8.1 A chargeable system change may be in the form of urgent repair work deemed as being within the scope of the Services Schedule in order to maintain the accepted operational status of the System. Alternatively, a change may be an enhancement for security, stability, scalability or functionality reasons that will not be covered within the scope of the Services Schedule unless undertaken at the discretion of Alphabyte as a proactive measure.
- 5.8.2 Requests from Customers for changes to their System not deemed as being implicit within the Services Schedule required under the scope of this Contract will normally be chargeable as separate pieces of work. Alphabyte will however assess each request on a request by request basis. If a request can be completed via remote support within a 30minute period there will not normally be a charge, any work requiring longer involvement will be charged in billing periods of 30 minutes at the rate specified in this agreement.
- 5.8.3 For separate pieces of work in the form of "consultancy" or "project work", charges will be at the hourly rate as set out in the Services Schedule, unless a fixed price has been pre-agreed in the form of supporting quotes and proposals. The Customer will be required to confirm commencement of such work in writing by email.
- 5.8.4 Alphabyte will always endeavour to seek the Customer's approval for chargeable changes in advance, however, Alphabyte retain the right to perform chargeable changes that fall outside of this agreement without prior sign off if deemed absolutely necessary for the continued operation of the Customer's system.
- 5.8.5 Alphabyte retains the right to revise the fees charged for on-going Support under the Contract following the implementation of changes.
- 5.8.6 The Customer retains overall responsibility for their system. Any Changes made to the system by the Customer or a 3rd party instructed by the Customer, may be approved in principle prior to being implemented. However, such changes will only be covered by the Contract once approved by Alphabyte upon completion of the implementation.
- 5.8.7 For such changes to be approved upon completion, Alphabyte must receive appropriate details from the Customer in a timely fashion in order to assess the impact they will have on the system and if they may cause the need for additional Support.
- 5.8.8 If Support is required for an unapproved system change or another system, Alphabyte will endeavour to provide Support under the terms of the Contract, however Alphabyte retains the right to refuse Support or impose additional charges as necessary.
- 5.8.9 If the Customer's system grows in numbers of Users, workstations or Server Instances by 25% over any given period, Alphabyte retain the right to instigate a system review.
- 5.8.10 The result of the system review may lead to the fees charged under the Contract to be revised.

5.9 Exclusions / Excluded Work

- 5.9.1 Customers must accept that computers, software and their associated products can be supplied in an imperfect state or can develop faults over time and that Alphabyte's role is to reduce the effects of such imperfections rather than to eliminate them.
- 5.9.2 Alphabyte retains the right to exclude 3rd party applications from the scope of the Contract.
- 5.9.3 If Alphabyte agrees to assist in supporting 3rd party applications, Support will only be provided to users that have a reasonable level of competency and once the user has used help files and other resources available from the vendor.
- 5.9.4 Alphabyte does not commit to having experts available for all 3rd party applications and therefore cannot guarantee being able to resolve all incidents relating to 3rd party software logged and will not provide training under the terms of the Services Schedule.
- 5.9.5 When 3rd party information or services are provided Alphabyte can make no guarantees about quality or suitability.
- 5.9.6 Alphabyte cannot guarantee that any 3rd party application including but not limited to Anti-Virus, security and firewall software, whether or not recommended by Alphabyte will keep computer(s) free of errors, viruses, worms, Trojans, email spam, spy ware, hacking or any other unauthorised access.
- 5.9.7 In certain circumstances when an issue exists with an aspect of the Customer's system, Alphabyte may recommend a solution that will require a capital cost outlay by the Customer. Such costs will not be covered by the monthly tariff.
- 5.9.8 If the Customer chooses not to adopt the solution recommended by Alphabyte and the issues continue, Alphabyte retains the right to refuse or limit Support in respect of the item / issue in question.
- 5.9.9 Alternatively, a higher charge for continued Support for the item / issue may be introduced to reflect the additional effort that would not have been required if the recommendation were adopted.
- 5.9.10 Alphabyte cannot be held responsible for being unable to provide Remote Support due to a lack of remote access to the System, when the lack of remote access results from a problem with connectivity that is beyond Alphabyte's control.
- 5.9.11 The Customer accepts and acknowledges that malfunctioning or defective equipment may cause interruption of the Services, that atmospheric conditions under special circumstances may cause interference to the provision of the Services and that calls and data may be routed over national and international public telecommunication systems and other networks beyond the control of Alphabyte.
- 5.9.12 Alphabyte will respond to incidents in accordance with the Services Schedule that is specified in this agreement.
- 5.9.13 Alphabyte retains the right to not install, configure or Support any software for which the Customer cannot provide / produce a valid license or installation media for.
- 5.9.14 Other services not included as standard within the scope of the Contract include:
 - 5.9.14.1 Procurement of new or replacement hardware, software of whatever nature.
 - 5.9.14.2 Installation, physical removal or relocation of hardware and software.
 - 5.9.14.3 Provision of hardware warranty for repairs or replacement of equipment including but not limited to networked PC's, servers, printers, photo copiers, fax and scanning machines (The Customer is responsible for keeping records of all 3rd party warranties and licences).
 - 5.9.14.4 Provision of Anti-Virus Software (Alphabyte will make recommendations but the Customer will remain responsible for purchasing the appropriate licence).
 - 5.9.14.5 Technical or end user training on the Customer's System or 3rd party applications.
 - 5.9.14.6 Internet connections email and web hosting services and remote file storage services.
 - 5.9.14.7 Work required as a result of operator error or any other improper use, care of or accident to the system, or any failure of or change in: electricity, air conditioning, humidity control or other environmental or operating conditions not recommended or approved by Alphabyte, or by the system manufacturer.
 - 5.9.14.8 Electrical or other work external to the equipment.
 - 5.9.14.9 Work on any item of the equipment that has been moved, repaired or tampered with by any person other than one of Alphabyte's representatives.

5.10 Complaints

- 5.10.1 In the event of a complaint in respect of Alphabyte's Services in whole or part, the Customer shall notify Alphabyte as soon as possible.
- 5.10.2 When a Customer needs to raise a complaint, the complaint should be lodged with the office manager or director of Alphabyte either verbally or in writing.
- 5.10.3 In the event that the Customer is dissatisfied with the quality of performance of a Consultant, the Customer must inform Alphabyte immediately, stating the basis for dissatisfaction. If, in the view of Alphabyte, the situation merits it, Alphabyte will withdraw the Consultant immediately and will use its reasonable endeavours to allocate another.

5.11 Sole Appointment

- 5.11.1 The customer shall not allow any person other than Alphabyte or one of its representatives to support the system(s).

6 On-Site Support

- 6.1 The customer is entitled to the On-Site Support service if the service is selected in the Choice of Services form.
- 6.2 On-Site support will be provided without extra charge where required unless otherwise specified.
- 6.3 Alphabyte retains the right to decide whether Support Services will be delivered remotely or on site at all times.
- 6.4 When an onsite visit is required, it will take place in accordance with the Response Times available within the Customer's Support Contract. Consequently there is no guarantee that an onsite Support visit will commence immediately at the start of the next standard hours period (9.00AM).

7 Online Backup

- 7.1 The customer is entitled to the online backup service if the service is selected in the Choice of Services form.
- 7.2 The online backup service relies on many components being consistently operational and in good working condition at all times. As such, Alphabyte cannot guarantee each data backup or restoration job will complete successfully.
- 7.3 Alphabyte will use its reasonable endeavours to ensure the online backup service runs successfully as often as possible, but it does not guarantee the availability of data and as such the Customer should consider whether additional backup measures are appropriate.
- 7.4 Depending upon the type, size and layout of the Customer's data, Alphabyte will decide on which type of backup to perform and at which intervals.
- 7.5 The online backup service relies on the Customer having a good internet connection over which to send data. Alphabyte cannot be held liable for backups not completed due to the lack of bandwidth to perform the backup.
- 7.6 Alphabyte will upon request provide the Customer with a report detailing which data set(s) are included within the backup and the frequency and success rate of the backup.
- 7.7 Alphabyte may, with the Customer's permission, create an additional backup to a cloud service hosted by Microsoft.
- 7.8 Alphabyte will with reasonable notice provide a test restoration of backed up data.
- 7.9 Upon termination of the Services, Alphabyte will immediately cease the backup service and destroy data held.

8 Remote Monitoring & Management

- 8.1 The customer is entitled to the Remote Monitoring & Management ("RMM") service if the service was selected on the Choice of Services Form.

9 Termination

- 9.1 The Customer can terminate the Contract at any time with the provision of 90 days' notice in writing following the expiration of the initial period.
- 9.2 If the Customer wishes support services to be ceased immediately or at any specific point during the 90 day notice period, the FULL charges for the initial term and 90 day notice period will remain applicable and payable in full by the Customer.
- 9.3 The customer shall be entitled to terminate the Contract in the event that the Alphabyte commits a material breach of the Contract and fails to remedy the breach within 90 days of receipt of written notice from the Customer.
- 9.4 To ensure compliance with clause 5.11, payment in full for any remaining term as well as any outstanding invoices is required before Alphabyte acts to provide information or transferring of any services to the Customer or another Services provider.
- 9.5 Any termination shall be without prejudice to Alphabyte's other rights or to the Customer's liability for amounts payable under the Contract.
- 9.6 In the event of termination of the Contract, Alphabyte retains the right to uninstall any 3rd party software from the Customer's System that Alphabyte own the licence for or that Alphabyte have installed on behalf of a 3rd party who own the software licence.
- 9.7 The Customer agrees not to use the Services for any unlawful, immoral or improper purpose and acknowledges that such use constitutes grounds for immediate termination of the Services by Alphabyte
- 9.8 Alphabyte shall be entitled forthwith to terminate this Agreement if:
 - 9.8.1 the Customer commits any continuing or material breach of any of the provisions of this Agreement and, in the case of such a breach which is capable of remedy, fails to remedy the same within 30 days after receipt of a written notice giving full particulars of the breach and requiring it to be remedied;

- 9.8.2 an encumbrancer takes possession or a receiver is appointed over any of the property or assets of the Customer;
- 9.8.3 an order is made or a resolution is passed for the winding-up of the Customer; or
- 9.8.4 the Customer makes any voluntary arrangement with its creditors or becomes subject to an administration order;
- 9.8.5 an order is made or a petition is presented for the bankruptcy of the Customer;
- 9.8.6 the Customer is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.
- 9.8.7 The Customer ceases or threatens to cease, to carry on business; or
- 9.8.8 any event analogous to those described in 9.8.1 to 9.8.7 occurs in relation to the Customer in any jurisdiction in which the Customer is incorporated or resident or carries on business.

10 Limitations of Liability

10.1 Alphabyte supplies (and assembles) machinery but does not manufacture the IT Equipment (or where the IT Equipment comprise computer software does not publish the software) and subject to the conditions set out below, Alphabyte sells the IT Equipment with the benefit of the manufacturer's or publisher's warranty (as the case may be).

10.2 The above warranty is given by Alphabyte subject to the following conditions:

- 10.2.1 Alphabyte will accept liability for defective IT Equipment only to the extent that Alphabyte is entitled to make a claim under the manufacturer's or publisher's warranty and obtain from the manufacturer or publisher a refund, credit, repair or replacement in respect of the defective IT Equipment.
- 10.2.2 Alphabyte shall be under no liability in respect of any defect arising from fair wear and tear, wilful damage, negligence, abnormal working conditions, failure to follow Alphabyte's or the manufacturer's or publisher's instructions (whether oral or in writing) misuse or alteration or repair of the IT Equipment without Alphabyte's approval in writing.
- 10.2.3 Alphabyte shall be under no liability under the above warranty if the total price of the IT Equipment has not been paid in full by the due date for payment.

10.3 Except in respect of death or personal injury caused by Alphabyte's negligence Alphabyte shall not be liable to the Customer:

- 10.3.1 by reason of any representation made which is not set out in this Agreement, or
- 10.3.2 by reason of any implied warranty, condition or other term, or
- 10.3.3 by reason of any duty of common law, or
- 10.3.4 for any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation (and whether caused by the negligence of Alphabyte's employees or agents or otherwise) whatsoever or howsoever arising under or in connection with the Agreement, or
- 10.3.5 for the loss of the Customer's data (and for that reason the Customer should ensure that appropriate steps are taken to ensure that data is backed up on a regular basis appropriate for the business of the Customer), or
- 10.3.6 for any consequential loss or damage done by an authorized third party accessing the Customer's IT systems
- 10.3.7 arising out of the failure of the Customer to replace or update IT Equipment or systems which are faulty or beyond its useful working life, or
- 10.3.8 that any IT Equipment cannot be repaired or replaced as parts or replacements are not reasonably available, or
- 10.3.9 To the extent that it has any liability to the Customer for any loss greater than £250,000 in relation to the Services or in the case of any public liability £2,000,000 which is the current cover provided by Alphabyte's insurers, or
- 10.3.10 For any delay in the provision of the Services which is beyond the reasonable control of Alphabyte or for the consequences of the Customer not being able to use its hardware or software during any automatic or requested software updates or hardware upgrades

10.4 Alphabyte shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any instructions supplied by the Customer which are incomplete, incorrect, inaccurate or illegible, or arising from their late arrival or non-arrival or any other fault of the Customer.

10.5 Alphabyte will not be held responsible for any data corruption or loss, howsoever caused.

11 Basis of the Sale of IT Equipment

11.1 Any quotation issued by Alphabyte will be open for acceptance for a period of 14 days only unless a different period is stated on the quotation.

11.2 Alphabyte shall sell and the Customer shall purchase the IT Equipment in accordance with any quotation of Alphabyte which is validly accepted by the Customer or any order of the Customer which is accepted by Alphabyte.

11.3 This Agreement shall govern the terms of any sale of IT Equipment to the Customer to the exclusion of any other terms and conditions subject to which any such quotation is accepted or purported to be accepted or any order made or purported to be made by the Customer.

11.4 Unless the Customer shall have paid in full for any IT Equipment the IT Equipment shall remain the property of Alphabyte.

11.5 Any IT Equipment delivered at the request of the Customer to any address other than any business address of Alphabyte shall be at the sole risk of the Customer who shall be liable to insure the same and keep it safe notwithstanding the fact that title may not have passed to the Customer.

12 Orders and Specifications

12.1 Alphabyte shall make recommendations as to the IT Equipment that the Customer should purchase based on information supplied or requests made by the Customer. The Customer shall be responsible to Alphabyte for ensuring the accuracy of the terms of any order including, but not limited to, the specification and suitability of any IT Equipment it may decide to purchase.

12.2 The quantity, quality and description of the IT Equipment shall be those given in Alphabyte's quotation (if accepted by the Customer) or the Customer's order (if accepted by Alphabyte).

12.3 Alphabyte reserves the right to make any reasonable changes in the specification of the IT Equipment which are required to conform with any applicable safety or other statutory requirements or which do not materially affect the quality or performance of the IT Equipment.

12.4 No order which has been accepted by Alphabyte may be cancelled by the Customer except with the agreement in Writing of Alphabyte and on terms that the Customer shall indemnify Alphabyte in full against all loss, costs, damages, charges and expenses incurred by Alphabyte as a result of cancellation.

13 Data Protection

13.1 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Alphabyte is the Processor.

13.2 Alphabyte shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.

13.3 Alphabyte shall provide reasonable assistance to the Customer in relation to compliance with the Data Protection Legislation.

13.4 Alphabyte shall, in relation to any Personal Data processed in connection with its obligations to the Customer:

13.4.1 Process that Personal Data only in accordance with the Schedule below, unless Alphabyte is required to do otherwise by Applicable Law. If it is so required, Alphabyte shall promptly notify the Customer before processing the Personal Data unless prohibited by Applicable Law;

13.4.2 Ensure that it has Security Measures in place (available on request) and the Customer hereby confirms that such Security Measures are appropriate to protect against a Data Loss Event having taken into account the:

13.4.2.1 Nature of the Personal Data to be protected;

13.4.2.2 Harm that might result from a Data Loss Event;

13.4.2.3 State of technological development; and

13.4.2.4 Cost of implementing any additional measures;

13.4.2.4.1 In relation to the clauses above, the Controller is responsible (as between the parties and to Data Subjects and supervisory authorities) for:

13.4.2.4.1.1 Ensuring the Data Subjects have given appropriate consent to the processing of any Personal Data by the Processor;

13.4.2.4.1.2 Ensuring the Security Measures meet the GDPR standard of appropriateness;

13.4.2.4.1.3 Claims or complaints resulting from Alphabyte's actions to the extent that such actions directly result from instructions received from the Customer.

In relation to the clause above the parties acknowledge that the Processor may not be in a position to assess what measures are appropriate to the Controller's Personal Data since the data is collected and processed for the purposes of the Controller's and not the Processor's business. The Controller may select chargeable services for additional security measures which exceed the standard security measures provided by the Processor.

13.4.3 Ensure that:

13.4.3.1 Alphabyte's personnel do not process Personal Data except in accordance with this clause and the schedule below;

13.4.3.2 It takes all reasonable steps to ensure the reliability and integrity of any Alphabyte or third party personnel who have access to the Personal Data and ensure that they: (i) Are aware of and comply with Alphabyte's duties under this clause; (ii) Are subject to appropriate confidentiality undertakings with Alphabyte or any Sub-processor; (iii) Are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer or as otherwise permitted hereunder; (iv) Have undergone adequate training in the use, care, protection and handling of Personal Data; and

- 13.4.4 It does not transfer Personal Data outside of the EEA unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - 13.4.4.1 The Customer or Alphabyte has provided appropriate safeguards in relation to the transfer (in accordance with GDPR Article 46) as determined by the Customer;
 - 13.4.4.2 The Data Subject has enforceable rights and effective legal remedies;
 - 13.4.4.3 Alphabyte complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses all reasonable endeavours to assist the Customer in meeting its obligations); and
 - 13.4.4.4 Alphabyte complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

IT BEING ACCEPTED by the Customer that:

- 13.4.4.5 It is technically possible for systems to be accessed by the Customer from outside the EEA
 - 13.4.4.6 the Customer is responsible for obtaining any necessary consent from Data Subjects in relation to any access by the Customer or licensed third parties to such systems from outside the EEA; and
 - 13.4.4.7 the Customer is liable for any complaints or claims by Data Subjects or third parties resulting from such access.
 - 13.4.5 At the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination unless Alphabyte is required by Applicable Law to retain the Personal Data.
- 13.5 Before allowing any Sub-processor to process any Personal Data related hereto Alphabyte must give the Customer:
- 13.5.1 At least 14 calendar days' notice in writing of the intended Sub-processor and processing;
 - 13.5.2 Confirmation that there is a written agreement with the Sub-processor which give effect to the terms set out in this Clause such that they apply to the Sub-processor;
 - 13.5.3 Such information regarding the Sub-processor as the Customer may subsequently reasonably require. Alphabyte shall remain fully liable for all acts or omissions of any Sub-processor.
- 13.6 Subject to 13.4 Alphabyte shall notify the Customer immediately if it:
- 13.6.1 Receives a Data Subject Access Request (or purported Data Subject Access Request) relevant to the Customer;
 - 13.6.2 Receives a request to rectify, block or erase any Personal Data relevant to the Customer;
 - 13.6.3 Receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation relevant to the Customer;
 - 13.6.4 Receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data, relevant to the Customer, processed hereunder;
 - 13.6.5 Receives a request from any third party relevant to the Customer for disclosure of Personal Data where compliance with such request is required or purported to be required by Applicable Law; or
 - 13.6.6 Becomes aware of a Data Loss Event relevant to the Customer
- 13.7 Alphabyte's obligation to notify under Clause 13.4 shall include the provision of further information to the Customer in phases, as details become available.
- 13.8 Taking into account the nature of the processing, Alphabyte shall provide the Customer with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under Clause 13.4 (within reasonable timescales) including by promptly providing:
- 13.8.1 The Customer with full details and copies of the complaint, communication or request;
 - 13.8.2 Such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 13.8.3 The Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 13.8.4 Assistance as requested by the Customer following any Data Loss Event;
 - 13.8.5 Assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 13.9 Alphabyte shall maintain complete and accurate records and information to demonstrate its compliance with Article 30 of GDPR.
- 13.10 Alphabyte shall allow for audits of its security measures and data processing activities by the Customer or the Customer's designated auditor at reasonable times and on reasonable notice.
- 13.11 For the avoidance of doubt, each party accepts liability for loss of Personal Data to the extent that the loss of Personal Data is caused by:
- 13.11.1 A material breach by such party of their data processing obligations under Applicable Law;
 - 13.11.2 A failure by such party to provide the Security Measures that it was contractually committed to provide in relation to such Personal Data up to the sum of £250,000.

14 Solicitation & Enticement

- 14.1 The Customer shall not, without the prior written consent of Alphabyte, at any time from the date of this Agreement to the expiry of twelve months (the "Relevant Period") after the termination of this Agreement, solicit or entice away from Alphabyte or employ or attempt to employ, directly or indirectly any person who is, or has been, engaged as an employee or sub-contractor of Alphabyte in the provision of the Services.
- 14.2 The direct engagement or use by the Customer of Alphabyte employees or sub-contractors as described in 14.1 provided by or through Alphabyte within the Relevant Period, will result in the Customer incurring the liability to pay to Alphabyte the Introduction Fee as described in 14.5 below.
- 14.3 The engagement or use through an agency or other similar organisation (other than Alphabyte) by the Customer of employees or sub-contractors introduced by Alphabyte will result in the Customer having the same obligation as detailed in 14.2 above.
- 14.4 The introduction by the Customer of an employee or sub-contractor from Alphabyte to another employer or agency or similar organisation, resulting in the engagement of such employee or sub-contractor by that third party within the Relevant Period, will render the Customer liable automatically and without prior notice (verbal or written) to payment of the Introduction Fee (defined in clause 14.5).
- 14.5 The Introduction Fee will be charged at a rate equal to 50% of the relevant employee's or subcontractor's annual salary as at the date of the event giving rise to the obligation on the Customer to pay the said Introduction Fee.

Data Processing Schedule

Description	Details
Subject matter of the processing	<p>The services purchased by the Controller, as chosen in Choice of Services Form, including but not limited to:</p> <ol style="list-style-type: none"> 1. IT Support Services 2. IT remote monitoring Services 3. IT & System Administration 4. Hosting Services 5. Backup Services 6. Professional Services 7. Software Support Services 8. Managed Services / IT Outsourcing Service
Duration of the processing	The term set out for the provision of the relevant services as stated in the Services Schedule
Nature and purposes of the processing	<p>Purposes of processing:</p> <ol style="list-style-type: none"> 1. Enabling the fluent provision of support and administration of customer IT systems 2. Provision of IT services including backup and monitoring 3. Provision of professional services and consultancy. <p>Nature of Processing:</p> <ol style="list-style-type: none"> 1. Storage 2. Recording 3. Remote Access 4. Consultation
Type of Personal Data	This varies from customer to customer, but depending on the products and services purchased may include both personal data and special category data as defined in the GDPR.
Categories of Data Subject	This varies from customer to customer. The Customer will maintain a list of categories of data subjects appropriate to their use of the software or services.
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	Data will be returned to the Customer in a machine-readable format on request prior to termination at the cost of the Customer, unless agreed otherwise in writing or to the extent it is required to be retained under Applicable Law