



WhiteSpider Terms and Conditions

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Approval

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1 DEFINITIONS

1. "Client" means the client to whom WhiteSpider is providing Services and/or Equipment.
2. "WhiteSpider" means WhiteSpider Enterprise Services Limited, its subsidiaries and any of its subcontractors.
3. "Services" means the services and activities which WhiteSpider will perform as described in a Quotation, Statement of Works or Proposal
4. "Client Data" means Client data to the extent that it relates to their requirements for Services or is necessary for the proper provision of the Services to the Client
5. "Client Site" is any premises occupied by the Client at which it receives the Services.
6. "Normal Working Hours" means 9.00 am to 5.00 pm where the individual(s) undertaking the work is located on a Working Day.
7. "Working Day" means Monday to Friday, excluding Bank or other Public holidays in England.
8. "Statement of Works" (SoW) means a document agreed by the parties which specifies Services and/or Equipment to be provided and the requirements for their provision.
9. "Commencement Date" is the date on which WhiteSpider starts the provision of the agreed services.
10. "Proposal", similar to a Statement of Works, means the document agreed by the parties specifying Services and/or Equipment to be provided and requirements for their provision (from here on included in the term "Statement of Works")
11. "Quotation" means a document that just identifies the Services and/or Equipment to be supplied, and the cost of these items
12. "Equipment" or "Hardware" means the products sold by WhiteSpider as set out in the SoW, Proposal or Quotation that fall within the scope of the Agreement
13. "Software" refers to any software sold by WhiteSpider, whether associated to specific equipment, or software sold separately.
14. "Service Charges" means the charges for the Services set out in the Agreement Details, an invoice issued by WhiteSpider and/or as detailed in the Record of Entitlement.
15. "Out of Hours" means time outside of Normal Working Hours.
16. "Initial Term" means the first term of the Agreement from the Commencement Date, being the period specified as such in the Agreement Details.
17. "Set-Up Fee" means the fee (if any) described as such in the Agreement Details, payable on the Commencement Date.
18. "Service Level Agreements" or "SLAs" are the service level arrangements applicable to the Managed Services, if any, as defined in the Managed Service Proposal
19. "Service Level" is the metrics for measuring the performance of the Managed Services as set out in the SLA.

20. "Next Business Day" means the same time on the next Business Day as the Client logged the relevant Incident Request, Change Request or Service Request on a Business Day.
21. "Packaged Service" means a standard pre-defined and repeatable service offering which WhiteSpider will perform as described in a SoW.
22. "Project Initiation Document" a.k.a. "PID" means the document setting out the overall project deliverables.
23. "Purchase Order" means a document issued by the Client to WhiteSpider, agreeing to the types, quantities, and agreed prices of Services and/or Equipment and authorising WhiteSpider to deliver such Services and/or Equipment
24. "Request for Change" is a formal request for a change in the agreed deliverables addition or change in scope, to the work identified in the SoW, or a request for the implementation of a change across the IT infrastructure which will record the work to be done as well as the assumed impact of the work.
25. "On Site" refers to a Client site, but not necessarily the site where the equipment is held
26. "Renewed Term" is a period of 12 months from the expiry of the Initial Term or the previous Renewed Term, as the case may be.
27. "Remote Location" refers to a location other than a Client site.
28. "Confidential Information" means any confidential business and financial information of a party which is marked "confidential", which the receiving party knows or reasonably ought to know is confidential, or which is by its nature confidential, including, without limitation, information concerning the business operations and methods of a party or technical information acquired either directly or indirectly by the other party but excludes information which is or becomes publicly known through no wrongful act of the receiving party and for the removal of doubt it includes the Scope(s) of Service.

2 AGREEMENT DETAILS

- 2.1 The client is: <CLIENT NAME>
- 2.2 The Commencement Date of the Managed Service agreement is: <AGREEMENT START DATE>
- 2.3 The Initial Term for the Managed Service agreement is: <XX> months
- 2.4 Billing Period for the Managed Service Agreement is: <MONTHLY / QUARTERLY / ANNUALLY / OTHER>
- 2.5 The Renewal Term for the Managed Service agreement is <XX> Months

3 ORDERS

- 3.1 All contracts for the provision of Services and Equipment by WhiteSpider shall be deemed to incorporate these Terms and Conditions, which shall prevail over any other terms from the Client. Once an order has been received, if the Client wishes to cancel the order, the Client will be liable for the cancellation and postponement charges as set out in these Terms and Conditions (see “Cancellation / Postponement” below).
- 3.2 All orders are subject to acceptance and to availability to provide the Services ordered: WhiteSpider is entitled to refuse any order placed by the Client.
- 3.3 The Client undertakes that all details it provides to WhiteSpider for purchasing Equipment or Services are correct to the best of the Client’s knowledge and belief’.
- 3.4 An order will be deemed to have been received when a Purchase Order referencing the WhiteSpider Quotation has been received by WhiteSpider.

4 PRICES

- 4.1 Charges for Services and Equipment, in addition to any appropriate VAT, are invoiced at the price as set out in the Quotation(s), unless otherwise agree by both parties.
- 4.2 A Quotation is valid for 30 days only from the date of the Quotation unless otherwise stated therein except as per 4.2(a) below.
 - a. For the supply of Equipment where the original vendor pricing is based on another currency, WhiteSpider reserves the right to limit the validity of the prices supplied to 7 days from the date of the Quotation. Further, in the case where the currency fluctuates by more than 1% during that period, WhiteSpider reserves the right to adjust the pricing of the Equipment should WhiteSpider’s supplier make such a change, and such change would make it commercially unviable for WhiteSpider to transact.
- 4.3 The prices quoted in each Quotation are independent of any other Quotation supplied, and WhiteSpider reserves the right to modify, from one Quotation to another:
 - Prices of Equipment based on prices received from its suppliers
 - From time to time its standard rate of Professional Services to the Client.
 - The prices of Managed Services
- 4.4 Any estimates provided by WhiteSpider for the cost of Services and Equipment shall be estimates only. Whenever estimated prices are quoted, WhiteSpider shall use all reasonable efforts to perform the relevant Services at the estimated price but in no event shall such estimates constitute a fixed price, or a not-to-exceed price agreement unless stated otherwise in the Quotation or SoW or Proposal.
- 4.5 Prices in the Quotation are only the costs for WhiteSpider to deliver the Services and/or Equipment. Prices in the Quotation do not, unless clearly identified, include VAT or other taxes due.

5 EQUIPMENT DELIVERY, TITLE AND RISK

- 5.1 WhiteSpider shall use reasonable endeavours to despatch Equipment by the date agreed with the Client but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond WhiteSpider's control. This may include, but shall not be limited to, delays caused by couriers or manufacturer lead times. If it appears a delay may be likely, WhiteSpider shall use all reasonable efforts to contact the Client and advise of the delay.
- 5.2 WhiteSpider does not accept liability for shortages or damage to deliveries unless the Client notifies WhiteSpider of the shortage or damage in writing within 48 hours of receipt of the delivery.
- 5.3 The Client is required to be able to accept the Equipment when they are ready for delivery within Normal Working Hours.
- 5.4 WhiteSpider will endeavour to supply all equipment in a single order. In the event that this is not possible, the Client shall be required to accept multiple deliveries.
- 5.5 Title and risk in the Equipment shall pass to the Client on delivery. In any event title in Software shall remain with the software vendor.
- 5.6 If the Client cannot accept delivery, WhiteSpider may, at its own discretion: (a) store and insure the Equipment at the Client's expense and risk or (b) re-arrange delivery provided that WhiteSpider may charge the Client for the additional delivery costs incurred.

6 PRE-REQUISITES & ESSENTIAL REQUIREMENTS

- 6.1 The Client shall provide WhiteSpider and its staff sufficient working space, as well as such access to the Client's personnel, files and equipment at the Client's facility, as WhiteSpider reasonably deems necessary for the performance of the Services.
 - a. As far as is possible WhiteSpider will define all dependencies in the SoW or Proposal which will be agreed with the Client prior to any work commencing.
 - b. Should WhiteSpider subsequently identify any additional dependencies, WhiteSpider will request in writing to the Client with no fewer than two full working days to complete the request.
 - c. The Client agrees to not withhold unreasonably any such request, and will endeavour to complete such request with two business days.
- 6.2 The Client shall:
 - d. Comply with the obligations set out in these Terms and Conditions;
 - e. Undertake the specific obligations specified in the SoWs or PID or Proposal;
 - f. Ensure that any assumptions or dependencies set out in the SoW or PID are fulfilled or complied with.
- 6.3 Except for the clauses 6.1, and 6.1a-d, if the Client fails to fulfil any of its responsibilities under these Terms and Conditions in a proper and timely manner and such failure causes a delay in the performance of the Services or results in additional costs to WhiteSpider, WhiteSpider shall take such action as it deems

reasonably prudent and shall provide the Client with a written specification of such delay and the resulting costs. The Client agrees to pay these costs to WhiteSpider at the then current standard WhiteSpider rates for the Services involved.

- 6.4 In the event that WhiteSpider needs to remove (as part of the agreed Services), or is otherwise requested to remove any of the Client's hardware from its site, unless it is otherwise specifically agreed in writing by the parties at the time, WhiteSpider shall be entitled to assume that all data of a sensitive nature and personal data (as defined by the Data Protection Act 1998) has been removed from the tapes or other media and the Client agrees to indemnify WhiteSpider from all and any claims and proceedings made or brought by any person in respect of any loss, damage or distress to that person by reason of any wrongful disclosure of any personal data on any such media or tapes.
- 6.5 Client shall be solely responsible for maintaining back-up copies of all data.
- 6.6 All such network cabling and associated sockets should be in their correct location and tested by the Client prior to the Equipment installation date.
- 6.7 All agreed Equipment locations will be final and adequate power sockets must be available.
- 6.8 No additional work will be undertaken if not included in the SoW or Proposal unless jointly agreed by both WhiteSpider and the Client. A Request for Change may be drawn up by WhiteSpider to cover such work, which must be agreed and signed by the Client before such additional work will be carried out.
- 6.9 During the period that WhiteSpider is designing and configuring the Equipment whilst not in-services, the Client agrees to give WhiteSpider full, unhindered and exclusive access to any Equipment until WhiteSpider has finished the Services unless otherwise expressly stated in the SoW or PID.
- 6.10 Any existing equipment belonging to the Client being utilised or connected, must be fully operational and fully accessible to WhiteSpider during the installation.
- 6.11 Delays on site caused by faulty equipment not supplied by WhiteSpider, or services not being ready, or access restrictions may incur additional charges at the then current WhiteSpider rates.

7 SERVICES

Managed Services

- 7.1 During the Term of the Managed Services WhiteSpider must supply the Services to the Client and the Client must pay the Set-Up Fee, Service Charges and any Additional Charges.

Professional Services

- 7.2 WhiteSpider shall use reasonable endeavours to provide the Services by the date agreed with the Client but does not accept liability for failure to deliver within the stated time where this is caused by circumstances beyond WhiteSpider's reasonable control. If a delay is likely, WhiteSpider shall contact the Client and advise of the delay.

- 7.3 The services WhiteSpider performs may be undertaken either On Site or at a Remote Location. The location of the work will be agreed between WhiteSpider and the Client at the outset of the project.
- 7.4 Unless otherwise agreed, for any On Site work the arrival time is for a 9.00am start on the date booked.
- 7.5 Installation and completion dates are estimates and dependent on factors including, but not limited to, the Client complying with its obligations and third parties complying with their obligations, therefore installation and completion dates are not guaranteed.
- 7.6 The Client is required to give WhiteSpider access to provide/install the Services within Normal Working Hours and Out of Hours (where agreed).
- 7.7 If the Client cannot allow WhiteSpider access to provide/install the Services on the agreed date WhiteSpider may re-arrange provision/installation of the Services provided that WhiteSpider may charge the Client for the additional costs incurred at the then current WhiteSpider rates.
- 7.8 Upon completion of the agreed Professional Services work, Client will sign to agreed completion, noting any exceptions. At this point, aside from any agreed exceptions, the work is deemed to be completed and full responsibility passes to the Client. WhiteSpider will follow through any exceptions.
- 7.9 In all circumstances responsibility will pass to the Client within 24 hours of WhiteSpider completing all agreed Professional Services.
- 7.10 The Services are deemed to be fully accepted if the Client has not raised any concerns in writing with WhiteSpider within 14 days after the work is handed over.

8 SOFTWARE

- 8.1 Any software provided as part of the Services is subject to any accompanying End User License Agreement and the terms thereof. The Client agrees to be bound by the same.

9 DIVISIBILITY

- 9.1 WhiteSpider reserves the right to provide its Professional Services by instalments and render a separate invoice in respect of each such instalment.
- 9.2 If the company exercises its right to provide its Services in accordance with subparagraph (1) above, then any delay in the provision of such Services, or failure to deliver any further instalment or instalments, shall not entitle the Buyer to reject the contract or the Services of any other instalment or to withhold payment in respect of any instalment previously Serviced.

10 SERVICE CHARGES AND PAYMENT TERMS

Invoices

10.1 WhiteSpider invoices will, where appropriate, include VAT charged at the prevailing rate at the date of invoice. The Client is responsible for paying the full amount, including VAT, on any invoice.

Professional Services

10.2 WhiteSpider shall invoice the Client on any payment dates specified in the SoW, PID or Proposal.

10.3 If no payment dates are specified in the SoW, PID or Proposal, and unless otherwise agreed in writing, WhiteSpider shall invoice the Client at the completion of each Milestone or Activity.

10.4 If no payment dates more milestones are specified in the SoW, PID or Proposal, and unless otherwise agreed in writing, WhiteSpider shall invoice the Client at the end of each calendar month for all completed services, stages, or activities during that month.

10.5 In the event that a single stage or activity extends over the end of a calendar month, WhiteSpider reserves the right to invoice a proportion of the work even if the phase is not complete.

- Note that the majority of project milestones where a document is issued will be completed when the document is approved by the Client. The exception to this is that when the milestone involves a Low Level Design an invoice will be issued on initial release of the LLD.
- From an invoicing perspective (unless otherwise agreed), any documentation created by WhiteSpider will be assumed to have been accepted by the Client once
 - Signed version of the document is received
 - Or:
 - If no feedback is received within five business days
 - Or
 - Feedback is received, in which case WhiteSpider will update the document as necessary and reissue. Note, at this point, the document is assumed to be accepted (so long as WhiteSpider has correctly updated the document).

None of this affects the technical approval of the LLD which will follow agreed approval processes.

10.6 Should an activity or phase require a customer signature, WhiteSpider reserves the right to invoice for the activity upon initial issue to the customer

10.7 The provision of any services outside the scope of the Services as set out in the SoW, PID or Quotations shall be billed through an agreed Request for Change to the Client at the then current WhiteSpider rates for such services.

Equipment

10.8 Any Equipment will, unless otherwise agreed, be invoiced as follows:

- a. 90% within one week of the date of the Purchase Order.

- b. 10% within one week of the delivery date of the Equipment. If the Equipment is delivered in multiple deliveries, WhiteSpider will issue an invoice for each delivery.

Managed Services

- 10.9 WhiteSpider will issue invoices for the Service Charges in advance monthly, quarterly, annually or for the full term (as otherwise defined in the Agreement Details) and will send each invoice to the address specified in the Agreement Details or as the Client may otherwise specify in writing.
- 10.10 When the Client first orders a Managed Service not previously supplied, or it is agreed by the parties as being either an addition to, or change to an existing Managed Service being supplied, then a non-recurring Set-Up Fee may be specified. Set-Up Fees are payable by the Client after delivery of the relevant Managed Service and will be billed in arrears.
- 10.11 WhiteSpider must issue invoices for any Additional Charges when it has done the relevant work, supplied the goods or incurred the expenses.
- 10.12 WhiteSpider may, by giving at least 30 days' written notice of the variation to the Client, vary the Service Charges:
 - at any time after the Initial Term expires;
 - at the end of a Renewed Term; or
 - at any time after the first 12 months of the Term, if the Initial Term exceeds 12 months with the Client's consent and limited to the 12 month rate of inflation but,
 - not more than once in a 12-month period.
- 10.13 If the Client and WhiteSpider fail to agree on the varied Service Charges within 30 days of WhiteSpider's notice, either party may terminate this Agreement by giving 30 days written notice to the other party.

11 PAYMENT TERMS

- 11.1 Payment is due no later than thirty (30) days following date of invoice unless alternate credit terms have been agreed in writing with WhiteSpider.
- 11.2 If payment is not made on the due date, WhiteSpider will be entitled to charge daily interest on the outstanding balance at the rate of 3% per annum above Lloyds Bank base lending rate.
- 11.3 If the Client fails to pay any amounts payable to WhiteSpider for Managed Services by the due date, WhiteSpider may, on 7 days' written notice, suspend supply of all or any part of the Service until the Client pays all such overdue amounts.

Taxes

- 11.4 WhiteSpider invoices will, where appropriate, include VAT charged at the prevailing rate at the date of invoice. Client is responsible for paying the full amount, including VAT, on any invoice that lists the VAT

Disputes

11.5 Should any element of an invoice be disputed the Client remains responsible for making payments as they are due on all other elements of the invoice.

12 CLIENT'S OBLIGATIONS

12.1 The Client must:

- a. will provide responses to WhiteSpider information requests promptly and completely. Should complete responses not be received within 10 working days of the request WhiteSpider reserves the right to cease work on the project and reassign project staff. At this point WhiteSpider will issue an invoice proportional to the amount of work completed.
- b. supply all communications interfaces WhiteSpider requires to enable provision of the Services, except those that WhiteSpider keeps on its own premises or installs at a Site for use in providing the Services
- c. ensure that WhiteSpider's information and materials in the custody of the Client for the purposes of this Agreement are protected at all times from unauthorised access or use by a third party and from misuse, damage or destruction by any person
- d. give WhiteSpider access to a Site when required for the purpose of providing agreed Services
- e. if requested, provide secure facilities at a Site for WhiteSpider to store tools, parts and other items necessary for it to perform its obligations under this Agreement
- f. keep such records relating to use and performance of the Configuration Items which are the subject of the Services as WhiteSpider may reasonably request and ensure that WhiteSpider's personnel have access to such records at all reasonable times
- g. comply with the Client's obligations set out in this Agreement; and
- h. carry out and maintain restorable backup copies of all relevant software licensed by the Client, whether operating systems, discrete applications or configurations and where WhiteSpider requires them to supply the Services, make the same available to WhiteSpider upon request.

12.2 If the Client fails to promptly comply with any of the Client's obligations set out in this Agreement, WhiteSpider may, in its absolute discretion, suspend performance of any or all of the Services affected as a result of the Client's failure or refusal until the Client has complied with its obligations.

13 INSURANCE

13.1 Each party shall at all times maintain appropriate policies of insurances with a reputable insurance company to cover their separate risks and liabilities under this agreement (such policies to include but not be limited to public liability insurance in an amount of not less than GBP 5,000,000 for any event, unless the parties agree otherwise in writing).

14 CANCELLATION/POSTPONEMENT

Professional Services

14.1 Once a Purchase Order has been received for the Services defined within the Quotation or SoW, the Client will be liable for the following:

- Service cancellation and postponement charges, unless jointly agreed by all parties;
 - Less than 48 hours in advance of agreed commencement date of Services - 100% of the service order value
 - 5 days to 48 hours in advance of agreed commencement date of Services - 75% of the service order value
 - 10 days to 6 days in advance of agreed commencement date of Services - 50% of the service order value
 - 11 days to 14 days in advance of agreed commencement date of Services - 25% of the service order value
 - 14 days or more in advance of agreed commencement date of Services - No Charge

Managed Services

14.2 Once a Purchase Order has been received by WhiteSpider for the Services defined within the Proposal, Client will be liable for the full charges as per these terms.

14.3 Should the Client postpone the services after the PO has been received by WhiteSpider, and up to seven days before the agreed Commencement Date the Client will be liable for the equivalent of 1 month of charges, except in the case that the postponement is for less than 1 calendar month

Equipment

14.4 Once a Purchase Order has been received for the Equipment defined within the Quotation, the Client will be liable for 100% of any 3rd Party Equipment (hardware or software) costs that cannot be cancelled. WhiteSpider will endeavour to obtain a refund, or re-assign, on any Equipment but until or unless this happens the Client is liable for the costs at the due time.

Special charges

14.5 If access to or replacement of a Configuration Item by WhiteSpider requires specialised equipment and/or additional resources to comply with legal or occupational health and safety requirements, the Client will incur an Additional Charge.

15 INTELLECTUAL PROPERTY

15.1 Any documentation provided to the Client shall remain the property of WhiteSpider until the completion and signoff of the project.

15.2 During the project (until completion signoff), the client agrees not to share any documentation produced by WhiteSpider with another 3rd Party, unless stated otherwise in the SoW or agreed in writing by WhiteSpider.

15.3 All Intellectual Property rights in the Services provided by WhiteSpider shall belong to WhiteSpider.

16 WARRANTIES

WhiteSpider warrants that: -

- 16.1 it shall use reasonable skill and care to carry out the Services to the generally accepted industry standards and the Services shall be supplied and rendered by appropriately experienced, qualified and trained personnel in a professional and workmanlike manner
- 16.2 the Professional Services will be free from defects for a period of 3 days after completion. The Client shall report in detail any deficiencies in the Professional Services to WhiteSpider in writing within 30 days of completion of the Project. In the event of a breach of warranty, the Client shall allow WhiteSpider the opportunity to correct errors or re-perform the Services to comply with the warranties set out in sub clause (1)
- 16.3 the Services, when supplied, shall conform to the description and service level agreements set out in the relevant SoW, Proposal or PID;
- 16.4 the Managed Services will be provided in accordance with Good Industry Practice and substantially in accordance with the Managed Service Specification and the Contract.
- 16.5 the provision of the Services, and Client's use thereof, shall not infringe any Intellectual Property Rights of any third party. This warranty does not apply insofar as it relates to items of hardware, software or other equipment manufactured by third party OEMs;
- 16.6 where the provision of the Services involves the supply or fitting of spare parts, title to such parts shall pass to the Client once the relevant part is fitted and the parts removed shall become the property of WhiteSpider, unless otherwise specified in a SoW or PID;
- 16.7 WhiteSpider cannot be held responsible for any fault or damage not caused by WhiteSpider. In the event of a claim arising relating to the level of skill and judgement applied during providing Services, WhiteSpider reserves at its sole discretion the right to appoint an independent expert in the field to appraise the work carried out in the execution of the Services. Additionally, WhiteSpider cannot be held responsible for equipment installed or configured when the equipment has subsequently been altered or configured by persons other than WhiteSpider.
- 16.8 In relation to Equipment, WhiteSpider warrants that WhiteSpider does not supply products on a trial basis. The Client is strongly advised to check suitability and specifications of Equipment before ordering.
 - a. In some instances, the Client may benefit from special price discounts issued by a manufacturer for their benefit. Such Equipment is not returnable to the manufacturer and may not be sold to other Clients.
 - b. In some instances, WhiteSpider may provide 'Proof of Concept' or similar solutions. In this case, all the relevant terms of this agreement still apply.

- 16.9 Unless otherwise stated in the manufacturer's documentation, all Equipment delivered to a UK mainland address carries a manufacturer's warranty. Should the Client wish to make a warranty claim, the Client must comply with the manufacturer's instructions and warranty procedure.
- 16.10 Except as set out here all warranties and conditions, whether express or implied by statute, common law or otherwise relating to the Services are hereby excluded to the fullest extent permitted by law.

The Client warrants

- 16.11 it has the authority to provide information and personal data to WhiteSpider and authorises WhiteSpider to handle the Client's information and personal data and to transfer it to third parties to the extent required to deliver the Services.
- 16.12 it has the authority to grant any rights granted to WhiteSpider under the Agreement.
- 16.13 it will comply with and use the Managed Services in accordance with the Contract and all applicable laws.
- 16.14 it has the appropriate licenses, rights and/or title to the Configuration Items that are the subject of this Agreement.
- 16.15 WhiteSpider's use of any third-party materials supplied by the Client in connection with the Contract, shall not cause WhiteSpider to infringe the rights, including any Intellectual Property Rights, of any third party
- 16.16 WhiteSpider does not warrant that the Client's use of the Services will be uninterrupted or error-free

17 SECURITY

- 17.1 WhiteSpider will operate safety and security measures and procedures consistent with Good Industry Practice for the prevention of unauthorised access or damage to any and all Services.
- 17.2 Each of WhiteSpider and the Client will promptly inform the other if it suspects or uncovers any breach of security in respect of the Services, and WhiteSpider will use all commercially reasonable endeavours to verify and, if verified, promptly remedy such breach.

18 WHITESPIDER'S LIABILITY

- 18.1 WhiteSpider shall under no circumstances be liable for any consequential or indirect damage or loss, however caused, including (but not restricted to) loss of business or profits in the ordinary course, loss of goodwill, damage to trading relationships, loss of data and other financial loss. WhiteSpider's liability in respect of all other losses shall be limited to the invoiced amount of the relevant order.
- 18.2 Other than in respect of its liability for death, personal injury, damage to tangible property, claims for breach of third party intellectual rights or breach of privacy laws, WhiteSpider's aggregate liability, whether arising from breach of contract, negligence or any other tort, breach of warranty under and indemnity or statute, in

equity or otherwise is limited to an amount equal to the annual Service Charges paid by the Client at the date such liability is proven to have arisen.

- 18.3 If WhiteSpider admits a liability to the Client for a claim for a breach of this Agreement and the Client has elected not to, (or has no right to) terminate this Agreement on the grounds of the breach, WhiteSpider may, at its option, elect to apply the whole or part of any amount agreed to be paid to the Client as the result of such breach as a credit to future Service Charges payable by the Client.
- 18.4 WhiteSpider has no liability to the Client for any incidental, indirect, special or consequential loss or damage, or for loss of or corruption of data, loss of use, revenues, profits, goodwill, bargain, opportunities or anticipated savings, whether arising from breach of contract, negligence or any other tort, in equity or under an indemnity, warranty or otherwise, whether or not WhiteSpider was aware of the possibility of such loss or damage.
- 18.5 To the fullest extent permitted by law, the parties agree to exclude all express or implied warranties, representations, statements, terms and conditions relating to WhiteSpider or the provision of the Services under these terms, not expressly set out in these terms, are excluded from the agreement between the parties.
- 18.6 The Client will indemnify WhiteSpider against any claim brought against WhiteSpider by a third party that the Client Data or the Client's use of the Managed Services infringes such third party's Intellectual Property Rights or other rights, provided that WhiteSpider will provide reasonable assistance in the defence and/or settlement of such claims, and provided that the Client will have on request sole authority to defend or settle any such claim
- 18.7 Notwithstanding the other provisions of this clause, WhiteSpider's liability for a breach of a condition or warranty is limited, at WhiteSpider's option:
 - a. if the breach relates to goods: to the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods (or of acquiring equivalent goods); or to the payment of the cost of having the goods repaired; and
 - b. if the breach relates to services: to the payment of the cost of having the services supplied again or the supply of the services again.
- 18.8 WhiteSpider will not be liable for any failure or delay in providing the Services where such failure or delay is the direct or indirect result of any action by or the failure of the Client to comply with this Agreement.

19 TERMINATION

- 19.1 Either party may terminate this agreement, the relevant SoW or suspend work if:
 - a. the other party fails to promptly pay any amount due to be paid under this agreement or
 - b. the other party passes a resolution for winding up (save for solvent amalgamation or reconstruction) or suffers a winding-up order being made against it; or
 - c. a receiver, administrative receiver, administrator or similar officer is appointed over the other party.

- 19.2 If either party materially breaches any provision of this Agreement, the other party may:
- suspend provision of the Services or payment of any amounts otherwise due (as the case may be) until the breach is remedied by the party in breach; and
 - terminate this Agreement, if the party in breach remains in breach of any such provision after receiving at least 30 days' notice in writing from the other party identifying the breach and requesting its remedy.
- 19.3 Either party may terminate this Agreement immediately if the other party:
- enters into any arrangement between itself and its (or any class of its) creditors.
 - ceases to be able to pay its debts as they become due
 - ceases to carry on business
 - has a mortgagee enter into possession or disposes of the whole or any part of its assets or business
 - enters into liquidation or any form of insolvency administration; or
 - has a receiver, a receiver and manager, a trustee in bankruptcy, an administrator, a liquidator, a provisional liquidator or other like person appointed to the whole or any part of its assets or business.
- 19.4 If WhiteSpider terminates this Agreement, the Client must immediately pay to WhiteSpider the total of all amounts then due to WhiteSpider pursuant to this Agreement.
- 19.5 If WhiteSpider terminates this Agreement on any of the grounds set out in clauses 20.2 or 20.3 the Client is not entitled to a refund or adjustment of any applicable Set-Up Fee or of any Service Charges paid to WhiteSpider.
- 19.6 If the Client terminates this Agreement on any of the grounds set out in clauses 20.2 or 20.3, the Client is entitled to a pro-rata refund of any part of the Service Charges it has paid for Services to be supplied after the date of termination.
- 19.7 Termination of this Agreement (for whatever cause) does not affect any right or cause of action which has accrued to the party which terminates this Agreement at or prior to the date of termination.
- 19.8 If the Client wishes to terminate the service within the Term for any other reason than identified in 19.2, 19.3 or 19.6 or 19.7 the Client will remain liable for any remaining payments due for the Term.

20 SOLICITING EMPLOYEES OR CONTRACTORS

- 20.1 During the term of this Agreement and for 6 months after termination by either party of this Agreement, a party must not employ or solicit for employment any person who is an employee of or contractor to the other party who was involved during the most recent 6 month period of this Agreement in the matters covered by this Agreement.
- 20.2 This clause does not apply where:
- a person responds to an advertisement for employment by a party; or
 - the employment is agreed to by the parties.

20.3 Each party acknowledges that the restriction specified in this clause is in the circumstances reasonable and necessary to protect each party's legitimate interests.

21 ERRORS AND OMISSIONS

21.1 WhiteSpider makes every effort to ensure that all prices and descriptions quoted are correct and accurate. In the case of a manifest error or omission, WhiteSpider will be entitled to rescind the contract, notwithstanding that it has already accepted the Client's order and/or received payment from the Client. WhiteSpider's liability in that event will be limited to the return of any money the Client has paid in respect of the order. In the case of a manifest error in relation to price, the Client will be entitled to purchase the Equipment or Services by paying the difference between the quoted price and the correct price, as confirmed in writing by WhiteSpider after the manifest error has been discovered.

21.2 A 'manifest error', as the term is used in sub-paragraph (1) above, means, in relation to an incorrect price, a price quoted in error by WhiteSpider which is more than 10% less than the price that would have been quoted had the mistake not been made.

22 COMPLIANCE WITH RELEVANT REQUIREMENTS

22.1 The Client and WhiteSpider shall:

- a. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
- b. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- c. have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirement, the Relevant Policies and clause (a), and will enforce them where appropriate;
- d. promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by the Client in connection with the performance of this agreement;
- e. immediately notify the other party if a foreign public official becomes an officer or employee of the Client or acquires a direct or indirect interest in the Client (and the Client warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this agreement);
- f. Breach of this clause shall be deemed a material breach.
- g. For the purpose of this clause, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any

guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively.

23 CONFIDENTIALITY

- 23.1 Both WhiteSpider and the Client acknowledge that they may receive information and material constituting trade secrets concerning the business, finances, systems, products and documentation of the other party (“Confidential Information”). Both WhiteSpider and the Client agree to protect and preserve the confidentiality of the other’s Confidential Information using the same standard of care as it uses to protect its own Confidential Information of a similar nature, but in no event using a lesser standard than a reasonable standard of care. The parties agree to hold each other’s Confidential Information in confidence while the Services are being performed and for a period of three years thereafter. All information, data or other materials disclosed or made available by or on behalf of Client to WhiteSpider, regardless of the manner, medium or form in which it is communicated or maintained, and regardless of whether the same is owned by Client or a third party, is Client’s Confidential Information.
- 23.2 Neither party is permitted, without the prior written consent of the supplying party, to disclose or communicate to any third party or to their employees, servants, agents, contractors or consultants any Confidential Information or use any Confidential Information for any purpose except for the purpose for which such Confidential Information was supplied or for the proper performance of this Agreement.
- 23.3 Each party agrees that the documents attached to or incorporated in this Agreement by reference are confidential and must not be disclosed to any person (other than a party’s legal or financial advisors or as required by law) without the prior written consent of the other party.
- 23.4 The operation of this clause survives the expiry or earlier termination of this Agreement.
- 23.5 Upon the written request of Client, WhiteSpider shall promptly return to Client or destroy all or any part of Client’s Confidential Information. Upon such return or destruction, WhiteSpider shall deliver to Client a certificate signed by an authorized representative of WhiteSpider, in a form satisfactory to Client, certifying that Client’s Confidential Information specified in the request has been returned or destroyed.

24 MANAGED SERVICE LEVELS

- 24.1 To deliver the agreed Managed Services, WhiteSpider requires access to the Client site prior to the commencement of the service, and at times during the service.
- As far as is possible WhiteSpider will define all dependencies in the Proposal which will be agreed with the Client prior to any work commencing.
 - Should WhiteSpider subsequently identify any additional dependencies, WhiteSpider will request in writing to the Client with no fewer than two full working days to complete the request.

- c. The Client agrees to not withhold unreasonably any such request, and will endeavour to complete such request with two business days.
 - d. Whilst it is intended that all services be delivered remotely by WhiteSpider, in the event that both parties agree (due to lack of available skilled Client resources) that WhiteSpider will visit site to help resolve an issue or incident, it may not be possible to give two days notice. As such the Client agrees to provide any access or data requested by WhiteSpider in writing as quickly as is reasonably possible. Also any SLA be put on hold until the requests have been fulfilled.
- 24.2 Except for clause 24, if the Client cannot allow WhiteSpider access to provide/install the Services as needed to maintain agreed service levels, WhiteSpider will not be bound by the agreed SLAs unless or until such access is granted. WhiteSpider may re-arrange provision/installation of the Services provided that WhiteSpider may charge Client for the additional costs incurred at the then current WhiteSpider rates.
- 24.3 Should WhiteSpider not respond in the agreed SLA period then WhiteSpider will be deemed to have missed the SLA. WhiteSpider's SLA performance will be measured over each month in % of calls that enter into the penalty period each month.

Achievement	Credits
99% -100%	0
90%-99%	1 credit
80%-89%	2 credits
70%-79%	3 credits
60%-69%	4 credits
50%-59%	5 credits
Less than 50%	10 credits

WhiteSpider shall be deemed to have responded to a ticket when:

- Phone Call: The call is answered by a person on the service desk.
- Email: When the service desk acknowledges the email, or raises a ticket (whichever is sooner)
- Portal: When the service desk acknowledges the email, or raises a ticket (whichever is sooner)

Note: 1 Credit represents 1 Change Token.

25 SUBCONTRACTORS

- 25.1 WhiteSpider may subcontract parts of the Services to such persons as it, in its discretion, considers necessary to enable it to fulfil its obligations under this Agreement.

26 GENERAL

26.1 if any provision in these Terms and Conditions is held to be invalid or unenforceable, it shall be deemed severed from the Terms and Conditions and this shall not affect the validity or enforceability of the remaining provisions.

26.2 Terms or conditions attached to or forming a part of a purchase order that the Client issues do not form part of this Agreement.

Out of scope work

26.3 The provision of services which are the subject of an Additional Charge or are otherwise not within the scope of this Agreement will be governed by the terms and conditions set out in WhiteSpider's Business Terms and Conditions: <https://www.whitespider.com/image/whitespider-services-terms-and-conditions.pdf>

26.4 This Agreement is limited to Managed Services provided on the Client's hardware. The responsibility for supporting and replacement of the Hardware and associated Software due to Hardware or Software faults lies with Vendor

Prior agreements

26.5 This Agreement supersedes all prior agreements, arrangements and undertakings between the parties and constitutes the entire agreement between the parties relating to its subject matter.

Variations

26.6 No variation of this Agreement is binding upon the parties unless made in writing signed by an authorised representative of each of the parties, unless provided otherwise in this Agreement. WhiteSpider's written acceptance of a written request (including a request made by e-mail) by the Client for a variation to the Record of Entitlement is binding on both parties. Following an agreed variation, WhiteSpider must issue a revised Record of Entitlement.

Notices

26.7 Notices to or by a party delivered in person are deemed to be given by the sender and received by the addressee when delivered to the addressee: if by post, 3 Business Days from and including the date of postage; or if by facsimile, when successfully transmitted to the addressee provided that if transmission is on a day which is not a Business Day or is after 5.00 PM (addressee's time), on the next Business Day.

Illegality

26.8 These Terms and Conditions shall be governed by and construed in accordance with the laws of England & Wales and the parties submit to the non-exclusive jurisdiction of the English courts.

26.9 Any provision or the application of any provision of this Agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.

Waiver

26.10 A waiver of a breach of this Agreement or of any right, power, authority, discretion or remedy arising upon a breach of or default under this Agreement must be in writing and signed by the party granting the waiver.

Assignment

26.11 A party may only assign this Agreement and any rights under this Agreement with the prior written consent of the other party.

WhiteSpider Management System

26.12 Due to changes in technology and WhiteSpider's desire to maintain the highest possible quality of the Services, it may be necessary to make adjustments or add enhancements to the WhiteSpider Management System during the Term. WhiteSpider will provide advance notice of any such changes, if possible. If the standard scope of the Services is necessarily improved or extended as a result of the enhancements, they will be offered to the Client for the remainder of the then current Term at no additional cost, provided that WhiteSpider will expect that no claim is made for a reduction in the Service Charges for minor reductions in scope as a result of the enhancements.

Force majeure

26.13 Neither party is liable to the other for the consequences of any delays or failures of its performance which are caused by any event beyond its reasonable control, including without limitation acts of God, fire, flood, accident, terrorism, strike, labour problems and riots.

27 APPROVAL

Client

WhiteSpider

Signed

Signed

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Name

Name

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Position

Position

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Date

Date

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