

These are the terms and conditions you agree to abide by when dealing with Wessex IT.

## 1. DEFINITIONS

1.1. In these Terms and Conditions the following terms shall have the following meaning except where context clearly requires otherwise:

**“Wessex IT”** means Wessex IT (company number 07908075) both registered at and trading from Knight House, Farren Court, Cowfold, West Sussex, RH13 8BP, UK;

**“Agreement”** means an agreement entered into between Wessex IT and the Client encompassing provision of Services by Wessex IT and payment for the same by the Client;

**“Contract Document”** means the Quotation and/or Service Level Agreement and/or Support Agreement (as applicable);

**“Quotation”** means, where the Services are for a specified project, the written details of the Services to be provided by Wessex IT;

**“Service Level Agreement”** (may also be referred to as “Support Agreement”) means the document containing details of the nature and level of service to be provided by Wessex IT;

**“Client”** means the person, firm, company, organisation or enterprise contracting with Wessex IT for the provision of the Services;

**“Connection”** means the connection to the Internet using the Internet connectivity service as specified in the Contract Document and described in Wessex IT literature or on the Wessex IT Website at the date of the Contract Document;

**“Domain Name”** means a public internet domain name;

**“Services”** means the services to be provided by Wessex IT to the Client as specified on the Contract Document; all reference to “Services” shall be construed accordingly;

**“Server”** means the computer server equipment operated by Wessex IT or by third parties on Wessex IT’s behalf in connection with the provision of the Services;

**“Virtual Server”** (may also be referred to as “Cloud Server”) means a subset of the resources of a Server allocated by Wessex IT to the Client in connection with the provision of the Services;

**“Bandwidth”** means the allocated transmission capacity, measured in bits per second, of a network connection as specified in the Contract Document;

**“Data Transfer”** means all traffic that passes to and is transmitted from the Services including specifically but not exclusively web traffic, email, FTP transfers and any shell session data;

**“Scheduled Maintenance”** means any maintenance, repair or improvement that is performed where the Client is notified at least 24 hours in advance, such notification taking the form of an announcement on the Wessex IT Website, it’s official social media channels or being made directly to the Client by postal mail, telephone, or email;

**“Terms and Conditions”** means these terms and conditions.

**“Fair Use Policy”** means fair and reasonable Data Transfer limits and other such technical restrictions on the use of internet Connection Services as published on the Wessex IT website and may updated from time to time.

**“Personal Information”** means data that is protected by the legislation specified in clause 19.1.

1.2. Any Agreement between Wessex IT and the Client shall be entered into on the basis of these Terms and Conditions to the exclusion of any other terms and conditions set out or referred to in any document or other communication used by either party in concluding such an agreement. These Terms and Conditions, together with the applicable Contract Document shall constitute the entire agreement between the parties. In the event of any conflict between these Terms and Conditions and any Contract Document the order of precedence shall be (1) the Service Level Agreement; (2) the Quotation; and (3) these Terms and Conditions.

1.3. Clause headings and emboldening and italicisation of text are for ease of reference and do not form part of nor shall they affect the interpretation of these Terms and Conditions.

1.4. Where the context so admits or requires, words denoting the singular include the plural and vice versa and words denoting any gender shall include all genders.

1.5. References to each party include its permitted assigns and successors by operation of law.

1.6. A person who is not a party to this contract has no rights under the Contract (Rights of Third Parties) Act 1999 to enforce any Term of these Terms and Conditions.

1.7. Wessex IT reserves the right to amend or modify these Terms and Conditions at any time, provided it notifies the Client by postal mail, or email prior to any such changes.

## 2. QUOTATIONS AND PROPOSALS

2.1. Any Quotation supplied by Wessex IT for the supply of Services shall not constitute a binding offer and Wessex IT reserves the absolute right to withdraw or vary any such Quotation providing that the Client is notified in accordance with Clause 20.

2.2. All Quotations are valid for a period of 30 days, unless otherwise stated.

### **3. PROVISION OF SERVICES (GENERAL)**

- 3.1. Wessex IT shall provide the Services specified in the Contract Document to the Client.
- 3.2. From time to time, Wessex IT may alter the technical specifications of any Services and alter the features and functions made available as part of the Services but shall use reasonable endeavours to ensure that the overall quality of Services and quantity and variety of features and functions remain consistent.
- 3.3. In the event of a Services fault, the Client undertakes to report the fault by telephone or email to the Wessex IT Service Desk at the appropriate telephone number, URL or email address that Wessex IT may from time to time provide. Upon receipt of the fault report, Wessex IT will use reasonable efforts to correct the fault.
- 3.4. Any equipment (included but not limited to IT and telephony equipment) provided to the client by way of a rental Service (the "Equipment Rental Service") remains the exclusive property of Wessex IT at all times. The Client agrees on expiry or cancellation of the Equipment Rental Service to return all equipment to a Wessex IT office at their expense and in a condition commensurate with the period of rental to date, and condition when first received. For the avoidance of doubt the Client has no right of ownership of any such equipment.
- 3.5. The Client accepts that Services may be unavailable in part or full during any period of Scheduled Maintenance.
- 3.6. The Client agrees to fully co-operate with the Police and any other relevant authorities and/or third-party suppliers in connection with any misuse or suspected misuse or fraudulent activity related to the Services and agrees that Wessex IT will be entitled to divulge any information which it holds which may be relevant to any investigation.
- 3.7. Wessex IT reserves the right to without notice remove, inactivate or deallocate software and/or licenses provided by Wessex IT as part of the Services installed on or allocated to the Client's devices which have not remotely connected to Wessex IT or its suppliers' systems within the previous 30 days.

### **4. INTERNET SERVICE PROVISION**

- 4.1. This Clause 4 shall apply where the Services include the provision of an internet Connection by Wessex IT.
- 4.2. Notwithstanding approval by Wessex IT of the Contract Document for any Connection, Wessex IT will only contract to provide a Connection once the relevant suppliers have confirmed to Wessex IT that a Connection can be delivered to the location specified in the Contract Document and within expected cost parameters.
- 4.3. The Client undertakes not to use the Connection for the provision of a web hosting or email hosting services unless otherwise explicitly specified in the Contract Document and accepted by Wessex IT as an acceptable use of the Connection.
- 4.4. It is the Client's sole responsibility to provide, store, provide power to and maintain any router, modem, computer or related hardware together with a suitable phone line (if required by that type of service) at the Client's premises in order to access the Connection unless explicitly included in the Contract Document.
- 4.5. IP addresses may be assigned to the Client but do not become the property of the Client and shall be returned when their use ceases or when they are replaced by other IP addresses. IP addresses are provided only on condition that the Client adheres in all respects to the RIPE terms and conditions.
- 4.6. Connections which do not include dedicated Bandwidth are subject to a Fair Use Policy.

### **5. HOSTING & SERVERS**

- 5.1. This Clause 5 shall apply where the Services include the provision of a Server or general hosting services by Wessex IT
- 5.2. The Client's use of such Services, including but not by way of limitation the writing, uploading, executing of data, scripts, applications and other software, and the sending and receiving of data (for example email) shall be at the Client's own risk.
- 5.3. Where this Agreement includes the provision by Wessex IT to the Client of a Server;
  - 5.3.1. The sole use of the Server shall be provided to the Client by Wessex IT for the duration of the Agreement upon advance payment by the Client of the appropriate fees and charges for the first billing cycle or as otherwise stated in the Contract Document and subject to the provisions of this Agreement and otherwise herein but, for the avoidance of doubt, at no time shall the Server become the property of the Client nor shall it be made physically available to the Client away from Wessex IT's hosting environment;
  - 5.3.2. Wessex IT undertakes the management and maintenance of the Server's physical hardware and network connections;
  - 5.3.3. Wessex IT shall only manage and maintain such software as may be pre-installed on the Server at the time of provision (including but not by way of limitation an operating system, web server and email server software) where the Contract Documents specifically state that the Server is "Managed".
  - 5.3.4. Wessex IT does not undertake and shall not in any way be liable for the management, maintenance or good-running of any software, data or other content uploaded to the Server by or on the Client's behalf unless specifically and explicitly provided for in the Contract Document.
- 5.4. Wessex IT shall not, in any event, be liable for interruptions of Services or downtime of a Server except to the extent of any Service Level Agreement.
- 5.5. The use of any Server or other Service provided for the Client's use under this Agreement will be restricted to the amounts of data storage, bandwidth, domain names and users specified in the Contract Document or from time to time notified to the Client, on the Wessex IT website or by email directly to the Client and additional usage will be payable by the Client at the rate set out in the Contract Document or Wessex IT's current list price.

- 5.6. In the event that the Client's Service is upgraded the Client shall no longer be entitled to the use of any Server or other Service replaced or superseded during the upgrade.

## **6. DOMAIN NAMES**

- 6.1. This Clause shall apply where the Services include the registration of a Domain Name by Wessex IT.
- 6.2. Registration and use of the Domain Name is at all times subject to the terms and conditions from time to time applied by the relevant naming authority which terms and conditions are hereby included into these Terms and Conditions. The Client is solely responsible for their own awareness of and compliance with such terms and conditions.
- 6.2.1. For UK domain registrations the Client shall ensure that he is aware of and complies with the terms and conditions of Nominet UK, the UK naming authority, which can be found at [www.nominet.uk/go/terms](http://www.nominet.uk/go/terms).
- 6.3. Whilst Wessex IT will use reasonable endeavours to obtain the Domain Name for the Client, the Client accepts that Wessex IT cannot guarantee such registration and shall not be liable where the Domain Name is or becomes unavailable for any reason whatsoever or where the naming authority or registration agent refuses any registration request. The Client shall have no right to bring any claim against Wessex IT in respect of cancellation of the Domain Name by the relevant naming authority.
- 6.4. The unavailability of the Domain Name or any replacement Domain Name shall not affect the validity of the relevant Agreement or the Client's obligation to pay the charges set out in such Agreement.
- 6.5. Wessex IT shall not be liable for any delay in configuring the Domain Name to work with a Wessex IT Service nor for any subsequent suspension or cancellation of the Domain Name by the naming authority or registration agent or their assigns or successors nor for any cost incurred by the Client as a result of such delay, suspension or cancellation. The Client's obligation to pay the fees set out herein shall not be affected.
- 6.6. If payment is not received for the Domain Name or where any payment for any of the Services falls more than 60 days overdue Wessex IT may cancel the domain or retain the domain for further sale for its own purposes and gain and shall not be liable for any loss or damage resulting from such action.
- 6.7. Where the Client wishes to use a previously registered Domain Name (the "Existing Domain Name") with the Services the Client shall be solely responsible for updating DNS records and/or name server records with the relevant naming authority or their agents or to provide correct third-party website login details to Wessex IT to do the same.
- 6.8. The Client may transfer an Existing Domain Name to Wessex IT at any point on or after the commencement of any Agreement and agrees to any fees payable to a third party in relation to such transfer and to follow the relevant transfer procedure for the type of domain being transferred or as directed by Wessex IT.
- 6.9. The Client may transfer a Domain Name to any third party at any point ("Transfer Out") provided he is not in breach of any of his obligations set out herein. For the avoidance of doubt this includes payment obligations relating to all Services and not just those relating to a Domain Name.
- 6.10. The Client's obligation to Wessex IT for any Services used with a Domain Name subject to a Transfer Out are unaffected.
- 6.11. Wessex IT shall not be liable for any Transfer Out delay in howsoever caused.
- 6.12. Wessex IT will automatically renew a Domain Name up to two months prior to its expiry date.
- 6.13. At any time prior to the actual renewal by Wessex IT of the Domain Name the Client may permanently opt-out of the automatic renewal process by notifying Wessex IT via postal mail or email. Wessex IT will not be liable for any suspension or cancellation of the Domain Name where a client has opted out of the auto-renewal process.
- 6.14. In consideration for renewal of the Domain Name or the Existing Domain Name by Wessex IT and prior to the renewal date, the Client shall pay to Wessex IT the appropriate renewal fee as per Wessex IT's list price at the time of renewal.
- 6.15. In the event that the Client shall fail to pay a renewal fee on or before the due date Wessex IT reserves the right to suspend the use of the Domain Name immediately or after the payment falls due. In the event that the Client shall fail to pay a renewal fee within a period of 60 days following the date payment falls due, Wessex IT reserves the right to use or sell on the Domain Name for its own purposes and gain and shall not be liable for any loss or damage resulting from such action.
- 6.16. Wessex IT reserves the right not to renew any Domain Name if the Client is in breach of any of his obligations set out herein. For the avoidance of doubt this includes payment obligations relating to all Services and not just those relating to a Domain Name.

## **7. BULK EMAIL**

- 7.1. The Client acknowledges that the use of any Wessex IT Services for the purposes of sending "spam" or unsolicited email or junk mail is strictly prohibited and undertakes not to use any Services, Connection, Servers or Domain Name for the same.
- 7.2. The Client undertakes only to use the Services for the sending of email to recipients who have knowingly and deliberately subscribed to or opted in to the Client's specific service which provides such emails.

## **8. EMAIL SECURITY**

- 8.1. This Clause shall apply where the Services include the provision of email security services for the purpose of spam and virus filtering.
- 8.2. Wessex IT shall have no liability in respect of email rejected, deleted or quarantined by the anti-spam service which are not spam, or which otherwise may be wanted by the Client (known as false-positives).

## 9. MICROSOFT CLOUD SERVICES

- 9.1. This Clause shall apply where the Services include the provision of Microsoft Cloud Services (including but not limited to Office 365 and Azure) by Wessex IT – an authorised Microsoft CSP Direct provider.
- 9.2. Use of Microsoft Cloud Services is subject to acceptance of the Microsoft Cloud Agreement as published on the Microsoft website (at the time of writing at <https://msdn.microsoft.com/en-us/partner-center/agreements>) and as updated from time to time. By using these Services, the Client is deemed to have read, understood and accepted the terms of the Microsoft Cloud Agreement for their region.

## 10. CLOUD VOICE

- 10.1. This Clause shall apply where the Services include the provision telephone systems and calls over the Internet (the “Cloud Voice Service”):
- 10.2. The Client acknowledges that the Cloud Voice Service may not be continuously available or operational and as such they should not be relied upon for the purposes of reaching public emergency services (e.g. 999)
- 10.3. The Client acknowledges that due to the nature of the Cloud Voice Service their name, telephone number or location may not be provided automatically or correctly to the emergency services.
- 10.4. The Client acknowledges that if the Cloud Voice Service is used outside of the UK that they will still connect to the relevant emergency service in the UK.
- 10.5. The Client agrees not to use (and shall procure that no end user shall use) the Cloud Voice Service in a way that breaches any Applicable Laws or any licence applicable to the Client or that is in any way unlawful or fraudulent or in bad faith or in a manner which constitutes a violation or infringement of the rights (including, without limitation, any Intellectual Property Rights) of any other person or to send or procure the sending of any unsolicited advertising or promotional material;
- 10.6. The Client agrees to implement adequate control and security over the use of the Cloud Voice Service including but not limited to the prevention of viruses, worms, Trojan horses and/or any calls generated by rogue diallers or hackers;
- 10.7. Wessex IT shall not be held responsible for call charges or other charges resulting from fraudulent and/or unauthorised use of the Cloud Voice Service by any unauthorised third parties (who are not employees of Wessex IT) and the Client agrees to pay all additional charges related to such fraudulent and/or unauthorised use.
- 10.8. The Client may port telephone numbers to Wessex IT and may (after the expiry of any minimum period stated in the Contract Document) port telephone numbers to other third-party operators with whom Wessex IT has a porting agreement.
- 10.9. In the event it is required to do so by legislation or at the direction of OFCOM, Wessex IT may at any time, on giving the Client notice in writing, withdraw or change any such telephone numbers allocated to the Client. Wessex IT shall have no liability to the Client for any losses incurred as a result of such withdrawal or change.
- 10.10. Where a telephone number (or numbers) are allocated to the Client as part of the Cloud Voice Service the Client shall not acquire any legal, equitable or other rights in relation to such or any right to sell or to agree to transfer any telephone number.

## 11. CHARGES AND PAYMENT

- 11.1. The fees, charges and subscriptions payable to Wessex IT by the Client in respect of the Services and Connections are as specified in the Contract Document or, in the case of Services not stipulated in the Contract Document, as individually agreed between the Client and Wessex IT. Except as otherwise explicitly provided for in this Agreement, all payments are to be made in advance and are non-exchangeable, non-refundable and non-transferrable.
- 11.2. In the event that the Services include those which can be over-used (including but not limited to broadband Connections, Servers, backup services, telephone calls), the Client shall be additionally liable for charges in relation to the Client exceeding the usage limit on any such Service. These charges shall be invoiced by Wessex IT in the month following the month in which such excess usage occurred.
- 11.3. Wessex IT shall invoice the Client in accordance with the Contract Document or these Terms and Conditions and all invoices shall be paid within 30 days of the date of such invoice.
- 11.4. All fees, charges and subscriptions are charged in UK pounds sterling and are exclusive of VAT and any other applicable purchase tax, import and all other duties, which shall also be payable at rates from time to time in force. Should the Client wish to pay in another currency, he must first obtain Wessex IT's agreement and hereby undertakes to pay any costs associated with conversation to UK pounds sterling.
- 11.5. Wessex IT reserves the right to increase or decrease its fees, charges and subscriptions for Services from time to time.
- 11.6. If the Client fails to pay any payments in accordance with these Terms and Conditions, then without prejudice to Wessex IT's other rights and remedies:
  - 11.6.1. The Client shall be liable to pay to Wessex IT a flat fee of £15 for each correspondence, including but not by way of limitation statements of account and reminders sent by post, fax or email;
  - 11.6.2. The Client shall be liable to pay to Wessex IT interest on the amount payable at an annual rate of 5% above the London Inter-Bank Offered Rate “LIBOR”, which interest shall accrue daily from the date payment becomes overdue until Wessex IT has received full payment of the overdue amount together with all additional charges, bank charges and interest;
  - 11.6.3. Wessex IT reserves the absolute right to suspend or withdraw any or all Services without notice and to reinstate such Services only upon full payment by the Client of all due fees and charges including but not by way of limitation all fees and charges for Services, all correspondence fees as set out in Clause 11.6.1, all accruing interest as set out in Clause 11.6.2 and all bank charges and related charges. In the event that Services are suspended, withdrawn or terminated, Wessex IT reserves the right to place a notice in lieu of the Client's website(s) where hosted by Wessex IT Services. Fees and charges continue to be payable while related Services are suspended or temporarily withdrawn.

- 11.7. Wessex IT may from time to time provide the Client with documentation to be completed by the Client for the purposes of arranging a standing order, direct debit or other electronic transfer of funds but in all cases the Client shall be responsible for the correctness and veracity of information relating to the Client and the payment of monies by the Client as provided in such documentation.

## **12. CLIENT WARRANTIES**

- 12.1. The Client warrants that it has provided accurate and complete information (including but not by way of limitation its name, postal or email address, phone number, bank sort code and account number) and will promptly report any changes in such information to Wessex IT.
- 12.2. The Client undertakes to keep secure any identification, password and other confidential information relating to the Client's use of or access to any Wessex IT Server or other Service and undertakes to notify Wessex IT immediately of any known or suspected unauthorised use or breach of security, including loss, theft or unauthorised disclosure of identification, password or other security information.
- 12.3. The Client accepts that Wessex IT may from time to time change any or all usernames, passwords, IDs, server hostnames, URLs, URIs, IP addresses or other information provided by Wessex IT and used by the Client to gain access to or use of any of the Services. Whilst Wessex IT shall make all reasonable endeavours to notify the Client of any such change prior to its occurrence, Wessex IT shall not be liable for any direct, indirect or consequential inconvenience, loss or damage of any kind which may be deemed to have arisen from any such change. Should the Client or any party acting for the Client ask Wessex IT to disclose any username, password or other identification, Wessex IT reserves the right to run such checks as Wessex IT deems necessary (including but not by way of limitation the provision of written authorisation from the Client) and to change without prior notice any relevant password or other identification before disclosure where Wessex IT at its absolute discretion sees fit.
- 12.4. Any third-party software provided with the Service together with such third party's electronic or printed licence agreement is included for use at the Client's sole option, and any use of such third-party software shall be governed by the third party's licence agreement and not by this Agreement.
- 12.5. The Client shall indemnify Wessex IT, its directors, employees, contractors, agents and affiliates and keep the same indemnified against all proceedings, losses, liabilities, damages (including legal costs), charges and expenses of whatsoever nature arising out of or in connection with any liability, action or claim that the Client's website content or the Client's use of any Wessex IT Services violates the provisions of Clause 12 and its sub-clauses. The Client acknowledges that for these purposes it is irrelevant whether the Client knows or is aware of the nature of the Client's Content.
- 12.6. The Client warrants that it has obtained for itself and for Wessex IT all necessary consents, approvals and licences for use of any content, data or software used by the Client with any Service and to regularly monitor compliance with such consents, approvals and licenses.
- 12.7. The Client warrants that it will use the Services only for lawful purposes. In particular, the Client represents, warrants and undertakes to the Company that;
- 12.7.1. The Client will not use the Services in any manner which infringes any law or regulation, or which infringes the rights of any third party, nor will the Client authorise or permit any other person to do so;
- 12.7.2. The Client will not publish, post, link to or transmit:
- 12.7.2.1. any material which is unlawful, threatening, abusive, malicious, defamatory, obscene, pornographic, blasphemous, profane or otherwise objectionable in any way;
- 12.7.2.2. any material containing a virus or other hostile computer program;
- 12.7.2.3. any material which constitutes, or encourages the commission of, a criminal offence or which infringes any patent, trade mark, design right, copyright or any other intellectual property right or similar rights of any person which may subsist under the laws of any jurisdiction; provided by Wessex IT to the Client.
- 12.8. The Client shall comply with all instructions and requests given or updated by Wessex IT regarding the use of the Service which in Wessex IT's reasonable opinion is necessary in the interests of security, or to maintain or improve the quality of Services to Wessex IT's customers or the Client and any such instructions shall whilst they are in force, be deemed to form part of this Agreement.

## **13. WARRANTIES**

- 13.1. Wessex IT warrants that the Services will be provided with reasonable skill and care.
- 13.2. THE FOREGOING WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WRITTEN OR ORAL, STATUTORY OR OTHERWISE.

## **14. DEADLINES**

- 14.1. Any deadlines advised by Wessex IT or contained in the Contract Document shall be advisory only, and Wessex IT shall not be liable for any failure to comply with any such deadlines.

## **15. TERM AND TERMINATION**

- 15.1. Unless otherwise specified in the Contract Document(s), this Agreement (and for the avoidance of any doubt any Services) may be terminated by either party by providing 30 days' written notice.
- 15.2. Either party may terminate any Agreement governed by these Terms and Conditions with immediate effect on written notice if the other party (the "Defaulting Party"):
- 15.2.1. Commits a material breach or persistent breaches of these Terms and Conditions and (in the case of a breach or breaches which is or are remediable) fails to remedy the same within 30 days of receiving a written notice specifying the nature of the breach and requiring the same to be remedied; or

- 15.2.2. (without prejudice to clause 15.2.1), the Client fails to pay any sum due to Wessex IT in accordance with the terms of this Agreement;
- 15.2.3. Becomes or is deemed to be insolvent or is unable to pay its debts (within the meaning of the Insolvency Act 1986) or the Defaulting Party enters into liquidation whether compulsorily or voluntarily or compounds with its creditors generally or has a receiver, administrator or administrative receiver appointed over all or any part of its assets or the Defaulting Party ceases to carry on all or a substantial part of its business.
- 15.3. For the avoidance of doubt, in the event of either party being entitled to terminate this Agreement under Clause 15.2, that party may elect (at its entire discretion) to terminate all the Services provided by Wessex IT, and not just the Service in respect of which the other party is in breach.
- 15.4. Notwithstanding any of its other remedies under these Terms and Conditions Wessex IT shall, at its sole discretion, have the right to suspend or terminate the Services in whole or in part at any time without notice if:
  - 15.4.1. The Client is in breach of any of his obligations set out herein;
  - 15.4.2. The Bandwidth, Data Transfer or other Server and network resources used for the Client's Services exceeds what Wessex IT considers acceptable use or is deemed by Wessex IT to affect the performance of other clients' services;
  - 15.4.3. The Client's use of any of the Services is making demands upon a Server which Wessex IT considers to be outside an acceptable range or which Wessex IT deems to be affecting the performance of other clients' services;
  - 15.4.4. Wessex IT has reasonable grounds to believe that the Services are being used fraudulently, unlawfully or by an unauthorised third party;
  - 15.4.5. Any license, approval or right granted by a third-party supplier or regulator to Wessex IT necessary to provide or to the Client necessary for it to use the Services is revoked amended or otherwise ceases to be valid.
- 15.5. The termination of any Agreement (for whatever reason) shall not affect the respective rights and liabilities of each of the parties accrued prior to such termination.
- 15.6. Upon the termination of this Agreement each party shall on request promptly return any documents or papers relating to the business of the other party (including any of the other party's Confidential Information as defined in Clause 18 below) which it then has in its possession or control.

## **16. WESSEX IT'S LIABILITY**

- 16.1. UNDER NO CIRCUMSTANCES SHALL THE LIABILITY OF WESSEX IT UNDER OR IN CONNECTION WITH THE AGREEMENT EXCEED THE FEES PAID BY THE CLIENT IN RESPECT OF THE SERVICES FOR WHICH THE CLIENT HAS MADE A CLAIM.
- 16.2. WESSEX IT SHALL NOT BE LIABLE TO THE CLIENT BY REASON OF ANY REPRESENTATION (UNLESS FRAUDULENT), OR ANY IMPLIED WARRANTY, CONDITION OR OTHER TERM, OR ANY DUTY AT COMMON LAW, OR UNDER THE EXPRESS TERMS OF THE CONTRACT, FOR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL LOSS OR DAMAGE (WHETHER FOR LOSS OF PROFIT OR OTHERWISE), COSTS, EXPENSES OR OTHER CLAIMS FOR COMPENSATION WHATSOEVER (WHETHER CAUSED BY THE NEGLIGENCE OF THE COMPANY, ITS EMPLOYEES OR AGENTS OR SUB-CONTRACTORS OR OTHERWISE) WHICH ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT. NOTHING IN THE AGREEMENT SHALL LIMIT WESSEX IT'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY WESSEX IT'S NEGLIGENCE.
- 16.3. In any event no claim against Wessex IT shall be brought unless the Client has notified Wessex IT of the claim in writing within six months of its cause arising.
- 16.4. In the case of any goods or services supplied by any third party as part of or which are necessary for the performance of this Agreement, including but not limited to any hardware, software or internet services, Wessex IT provides no warranties in relation to these goods or services save to the extent that Wessex IT has received the same from the third party providing the goods or services. Wessex IT shall have no liability whatsoever for any damage directly or indirectly caused by any defect (inherent or otherwise) or failure of any goods supplied by a third party to meet any standard of satisfactory quality, any failure by a third party to provide services with reasonable skill and care or any failure by a third party to supply goods or services (including, without limitation, any failure of or interruption to any Service provided by an internet service provider). Without prejudice to the generality of the foregoing, Wessex IT shall have no liability whatsoever for the acts or omissions of any providers of telecommunication services or for faults in or failures of their apparatus.
- 16.5. UNDER NO CIRCUMSTANCES WILL WESSEX IT HAVE ANY LIABILITY FOR ANY LOSS DIRECTLY OR INDIRECTLY DUE TO ANY VIRUS, MALWARE, WORM, LOGIC BOMB OR TROJAN HORSE OR OTHER CODE THAT INDISCRIMINATELY REPLICATES ITSELF AND IS AUTOMATICALLY DISSEMINATED.
- 16.6. Wessex IT shall not be liable for any damages, loss, costs or other expenses arising out of or in connection with any loss of or damage to any data, howsoever caused. Unless otherwise specified in the Agreement, the Client shall be solely responsible for the backup and retention of the Client's data.

## **17. FORCE MAJEURE**

- 17.1. Neither party shall be liable for any delay in performing or failure to perform its obligations where such delay or failure results from any cause or circumstance whatsoever beyond its reasonable control, including without limitation war, civil disorder, industrial disputes, inclement weather, acts of God, acts of local or central government or other competent authorities and failure by other service providers.

## **18. CONFIDENTIAL INFORMATION AND SECURITY**

- 18.1. All information, drawings, specification, documents, contracts, design material and all other data, which either party may have disclosed and may from time to time disclose to the other party relating to its business, clients, prices, services, requirements, Contract Document, the Services and these Terms and Conditions, including any technical specifications (the "Confidential Information"), are proprietary and confidential to the disclosing party.
- 18.2. Each party hereby agrees and undertakes to the other that it will use such Confidential Information and all other data solely for the purposes of these Terms and Conditions and will not, at any time during or after the completion, expiry or termination of any Agreement, use or disclose the same whether directly or indirectly, to any third party without the other party's prior written consent.

- 18.3. Each party further agrees and undertakes that it will not itself or through any subsidiary or agent use, sell, licence, sub-licence, create, develop or otherwise deal in any Confidential Information supplied to it by the other party or obtained while performing any Agreement.
- 18.4. The Client undertakes to keep the Confidential Information confidential and to notify Wessex IT immediately of any known or suspected unauthorised use or breach of security, including loss, theft or unauthorised disclosure.
- 18.5. Each party will ensure that each of its employees, agents or sub-contractors will comply with the provisions contained within this Clause.
- 18.6. The provisions of this Clause do not apply to any Confidential Information or data which:
  - 18.6.1. Is or becomes freely available in the public domain through no default of the receiving party; or
  - 18.6.2. Is required to be disclosed by any court of competent jurisdiction or statutory or regulatory authority; or
  - 18.6.3. Is received from a third party which owes no duty of confidentiality in respect of such information.

**19. DATA PROTECTION**

- 19.1. Each party shall for the duration of any agreement governed by these Terms and Conditions comply with provisions of the Data Protection Act 1998 (including the data protection principles set out in that Act) and the General Data Protection Regulation (GDPR) (Regulation (EU) 2016/679) from 25th May 2018 and any similar or analogous laws, regulatory requirements or codes of practice governing the use, storage or transmission of personal data and shall not permit anything to be done which might cause or otherwise result in a breach by either party of the same.
- 19.2. In order to provide the Services it may be necessary for Wessex IT to view/copy your data; including any Personal Information about you or others which may be contained within your data. By providing this data (or access to it) the Client authorises Wessex IT to process the Personal Data only as necessary to provide the Services and subject to the protections specified in this clause 19.
- 19.3. The following table describes the situations in which we may need to view or copy your Personal Information however the list is non-exhaustive and the agreement applies to all Personal Information that we obtain from you or your systems regardless of its inclusion or omission herein:

Service	Data Required	Permitted Purposes
Remote IT Support	Viewing of the Client’s screen and access to files on their computer(s).	Viewing of information only. No copying or other use whatsoever except where it strictly necessary to provide the required support/resolution. No data is retained after the issue is resolved.
In-Person IT Support	All data stored on the Client’s computer(s) whilst in Wessex IT’s care (including Wessex IT’s workshop) and in any cloud services used by that machine and/or user.	Computer support and/or repairs, providing support to end users. Copies of data may be required in order to carry out repairs, installations or migrations. Any copies retained on Wessex IT equipment will be deleted after 1 month.
Hosted Services	Data contained within the hosted services.	Wessex IT staff may have access to your data through our management systems and interfaces but will only do so for the purposes of managing the hosted service or providing support. Wessex IT will not copy the data outside of Wessex IT systems nor use it for any other purpose.
Backup	All data requiring backup.	Data is copied to selected storage locations and servers and can be restored to the same or different location on request.
Usage Information	Data about the Client’s use of Wessex IT Services.	In order to monitor and improve the Services.

- 19.4. Wessex IT will not use sub-processors in providing the Services without the Client’s prior consent except as listed below:

Sub-Processor	Data Required	Permitted Purposes
Remote Monitoring and Management Platform (RMM) Provider	Screen Sharing, Remote File, Registry, Service and Process Access. Computer audit information. Monitoring data.	To provide support to Wessex IT staff in troubleshooting problems with the platform only.
Business Management Service Provider (PSA)	Client contact, contract, CRM, project, billing and support ticket information.	To provide support to Wessex IT staff in troubleshooting problems with the service, in order to monitor and improve the service and produce aggregated statistics for marketing purposes.
Partner Services	Contact Information, computer and network information, any data required for the ordered Service to function	To identify the client and its staff, to provide access to the Services and to produce and disseminate relevant license information. Transmission and storage of client data only where the service is designed for that purpose (e.g. storage of backup data by a backup service provider, scanning of files by an anti-virus service provider).

- 19.5. Wessex IT warrants that it:
  - 19.5.1. Will only act on the Client’s instructions in relation to the processing of any Personal Information; and
  - 19.5.2. Will ensure that people processing the Client’s data on its behalf are subject to a duty of confidence; and
  - 19.5.3. Has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of personal data that we process on your behalf (please see the [Privacy Notice](#) published on the Wessex IT website for more details); and
  - 19.5.4. Will take reasonable steps to ensure any sub-processors are bound by these same warranties.
- 19.6. Wessex IT will (to the extent that these apply to data processed under the Agreement):

- 19.6.1. Assist the Client in providing subject access and allowing data subjects to exercise their rights under the GDPR;
  - 19.6.2. Assist the Client in meeting their data protection obligations in relation to the security of processing, the notification of persona data breaches and data impact assessments;
  - 19.6.3. Delete or return all Personal Information to the Client as requested upon cessation of the Services;
  - 19.6.4. Submit to audits and inspections and provide you with information required to ensure that both you and us are meeting our respective legal obligations for data protection;
  - 19.6.5. Tell you immediately if we are asked to do something that, in our opinion, infringes data protection legislation; and
  - 19.6.6. Tell you immediately if we become aware of a data breach that may affect Personal Information processed under this Agreement.
- 19.7. The parties agree that for any Personal Information processed under the terms of this Agreement that the Client is the “Data Controller” and Wessex IT is the “Data Processor” in accordance with the meaning of those terms in the data protection legislation specified in clause 19.1 and each shall have the responsibilities and liabilities of those roles under that legislation.
- 19.8. The provisions of clause 19.1 through 19.7 refer only to Personal Information provided by the Client to Wessex IT in order to perform the Services. It does not apply to Personal Information collected by Wessex IT for its legitimate business purposes (for which Wessex IT is the “Data Controller”) such as contact details, correspondence and billing information. Use and protection of this data is specified in the [Privacy Notice](#) published on the Wessex IT website.

## 20. NOTICES

- 20.1. All invoices, statements of account and other notices sent by Wessex IT to the Client’s last known postal address, facsimile number or email address shall be deemed to have been received by the Client.
- 20.2. All notices and other communications required or permitted to be given under these Terms and Conditions shall be in writing and shall be delivered or transmitted to the intended recipient’s address as specified above or such other address as either party may notify to the other for this purpose from time to time. Any notice shall be treated as having been served on delivery if delivered by hand, two working days after posting if sent by prepaid registered mail, on delivery if sent by courier, on confirmation of transmission if sent by facsimile and on receipt of email message by the recipient’s email service provider.

## 21. ASSIGNMENT AND SUB-CONTRACTING

- 21.1. Either party hereto may assign any Agreement in whole or in part to any third party:
  - 21.1.1. Where the prior written consent of the other party is given (such consent not to be unreasonably withheld or delayed) or;
  - 21.1.2. Where 30 days written notice has been given to the other party and where the assigning party has not received written notice of objection.
- 21.2. For the avoidance of doubt, Wessex IT may and shall, as it deems fit, sub-contract part or all of its obligations under these Terms and Conditions.

## 22. ADDITIONAL PROVISIONS

- 22.1. The failure of either party to enforce or to exercise at any time or for any period of time any term of or any right pursuant to these Terms and Conditions does not constitute, and shall not be construed as, a waiver of such term or right and shall in no way affect that party’s right later to enforce or to exercise it.
- 22.2. If any term of these Terms and Conditions is found to be illegal, invalid or unenforceable under any applicable law, such term shall, insofar as it is severable from the remaining terms, be deemed omitted from these Terms and Conditions and shall in no way affect the legality, validity or enforceability of the remaining terms.
- 22.3. Provisions of these Terms and Conditions which are either expressed to survive its termination or from their nature or context it is contemplated that they are to survive such termination, shall remain in full force and effect notwithstanding such termination.
- 22.4. Nothing in these Terms and Conditions shall constitute the parties as partner, joint ventures or co-owners, or constitute either party as the agent, employee or representative of the other.

## 23. LAW AND JURISDICTION

- 23.1. The construction, validity and performance of these Terms and Conditions shall be governed by the law of England and Wales, whose courts shall have exclusive jurisdiction over any dispute between the parties.