

## SECTION C – MANAGED SERVICES

### 1 Definitions

- 1.1 Unless otherwise defined in this Section, terms used in this Section shall have the meaning given to them in Schedule 1 (Definitions and Interpretation) of the Terms and Conditions and the Managed Services Service Description.

### 2 Set-Up

- 2.1 InspHire shall notify the Customer in writing when it considers that a Managed Service is available for use by the Customer ("Set Up Date").
- 2.2 On or before the Set Up Date InspHire shall supply to the Customer:
- (a) a set of operating instructions containing information on the use of the Managed Service; and
  - (b) security password(s) to enable the Customer to obtain access to the Managed Service.
- 2.3 The Customer shall review the operation of the Managed Service within five (5) Business Days of receiving the notification in accordance with Clause 2.1 ("Review Period"). If the Managed Service fails to meet the description for such service in the Managed Services Service Description in all material respects, the Customer shall notify InspHire in writing within the Review Period, giving details of the problem ("Problem"). InspHire shall use reasonable endeavours to correct a Problem within a reasonable time and will re-submit the Managed Service to the Customer.
- 2.4 The provisions of Clause 2.3 shall then apply again for up to two (2) additional times, failing which, if InspHire is still unable to correct the Problem, the Customer may require InspHire to return any Charges paid for such Managed Service.
- 2.5 The Managed Service shall be deemed accepted from:
- (a) the expiry of the Review Period if InspHire does not receive any written notification from the Customer in accordance with Clause 2.3 within the Review Period; or
  - (b) the correction of the Problem in accordance with Clauses 2.3 and 2.4, ("Acceptance Date").

### 3 Term

- 3.1 InspHire shall provide each Managed Service from the relevant Acceptance Date in accordance with the Contract Terms.
- 3.2 The service levels detailed in the Managed Services Service Description shall apply from the first complete month occurring at least sixty (60) days after the Acceptance Date.
- 3.3 InspHire shall provide the Managed Services to the Customer (subject to earlier termination in accordance with the terms of the Contract) for the period specified in the Quotation or, where no such period is so specified, for a period of three (3) years commencing on the Set Up Date (the "Initial Term"). After the expiry of the Initial Term, the supply of the Managed Services shall (subject to earlier termination in accordance with the terms of the Contract) continue under the Contract Terms on an annual basis (each such annual period being an "Extension Period"), until terminated by either InspHire or the Customer on not less than ninety five (95) days' prior written notice to the other, such termination to take effect no earlier than the end of the Initial Term or the current Extension Period (as the case may be).

### 4 Security

- 4.1 InspHire shall ensure that appropriate and reasonable safety and security systems and procedures are maintained and enforced to prevent unauthorised access or damage to any and all Managed Services, the InspHire Systems and related networks or resources and the Customer Data, in accordance with good industry practice. InspHire shall use reasonable endeavours to ensure that the InspHire Systems are designed, maintained and upgraded so as to minimise the risk of malicious attack.
- 4.2 The Customer shall take all reasonable steps to preserve the security of the Managed Services and shall promptly inform InspHire if it suspects or uncovers any breach of security, and shall use all commercially reasonable endeavours to promptly remedy such breach.
- 4.3 InspHire may periodically change, or require the Customer to change, the password(s) in accordance with its security procedures and shall notify the Customer accordingly. If InspHire becomes aware, or suspects, that any unauthorised person has obtained or has attempted to obtain access to the Customer Data or use of the Managed Service, then InspHire shall promptly notify the Customer and may forthwith change the Customer's password(s).
- 4.4 The Customer is responsible for the protection and confidentiality of passwords and user identification. The Customer acknowledges that if a person with knowledge of a password leaves its service or ceases to be authorised to use the Managed Service, that person could gain access to its Customer Data and Managed Service. Accordingly, the Customer undertakes to promptly cancel or procure the cancellation of the applicable password(s). InspHire accepts no liability if the Customer fails so to do. The Customer will notify InspHire immediately upon becoming aware of the loss, disclosure or unauthorised use of such user identification or password. InspHire shall not be liable for any losses of any nature whatsoever incurred by the Customer (whether directly or indirectly) as a result of the disclosure or loss of any identification or password by the Customer.

### 5 Service Provision

- 5.1 The Customer shall:
- (a) at all times use the Managed Service in accordance with the Contract Terms and the Managed Services Service Description and for the sole and exclusive use of the Customer for its internal business and operational use only. Any failure by the Customer to comply with this obligation, which is not remedied to the reasonable satisfaction of InspHire within forty eight (48) hours (or such shorter time period as may in InspHire's sole discretion be reasonable in the circumstances) of notice to do so shall be deemed to be a material breach of the Contract;
  - (b) be responsible for the provision of a disaster recovery or business continuity service, unless this is provided by InspHire under the Contract or another contract between InspHire and the Customer;
  - (c) be responsible for all of its local facility cabling, connectivity installation and connectivity charges necessary to facilitate the connection to the Managed Service up to the entry point of the InspHire network; and

## SECTION C – MANAGED SERVICES

- (d) take reasonable measures to ensure it does not jeopardise services supplied to third parties on the same shared access infrastructure as notified to the Customer by InspHire in writing. This includes informing InspHire promptly in the case of a denial-of-service attack or distributed denial-of-service attack. In the event of any such incident, InspHire will work with the Customer to alleviate the situation as quickly as possible. The parties shall discuss and agree appropriate action (including suspending the Managed Services).
- 5.2** The Customer shall not store, distribute or transmit (and shall not permit the storage, distribution or transmission of) any virus, or any material through any of the Managed Services, nor, subject to the Terms and Conditions, shall it provide any Customer Data that:
- (a) is unlawful, harmful, threatening, defamatory, obscene, harassing or racially or ethnically offensive;
- (b) facilitates illegal activity; and/or
- (c) promotes unlawful violence, discrimination or any other illegal activities.
- 5.3** The Customer shall not provide the Managed Services to third parties (including by way of resale or onward supply in whole or in part) unless agreed otherwise in writing by the parties. If the Customer permits a third party to use a Managed Service, the Customer shall be responsible for the acts and omissions of such third party. The Customer shall ensure that such third party does not do nor omit to do anything that would cause the Customer to be in breach of its obligations under the Contract. The Customer shall indemnify InspHire and hold InspHire harmless against any and all claims by third parties arising out of or in connection with any such third party use of a Managed Service.
- 5.4** Risk of loss or of damage to the Customer Systems, Customer Data, storage media, software, materials and/or resources resulting from or in connection with the Managed Services shall be the responsibility of the Customer. The Customer may maintain, for the duration of the Contract, at the Customer's sole expense, insurance against all risks, including without limitation, insurance for loss or damage to the Customer Systems, loss by fire (including extended coverage), theft, public liability and damage to property of others.
- 5.5** Where Internet Protocol (IP) or other network addresses are allocated to the Customer by InspHire, such addresses are for use only in connection with the Managed Services and all rights in them belong to InspHire. The Customer shall not sell or transfer them to any person nor attempt to do so. On termination of the Contract or the relevant Managed Service for any reason, such addresses shall revert to InspHire.
- 5.6** The Customer undertakes not to purposely gain access to programming code of InspHire (other than access to and use of the Managed Service in accordance with the Contract), or attempt to gain access to programs or data of any other Customer of InspHire, and shall indemnify InspHire against any loss, damage or liability which InspHire may sustain or incur as a consequence of the Customer failing to comply with this undertaking.
- 5.7** In relation to the Managed Services being provided by InspHire to the Customer, the Customer Representatives will:
- (a) be the liaison point for InspHire for discussions regarding Calls;
- (b) be an escalation point for Calls; and
- (c) take an overview of all Calls the Customer logs with InspHire.
- 5.8** In relation to the Managed Services being provided by InspHire to the Customer, the Senior Customer Representative will:
- (a) authorise Authorised Users that may have InspHire Level access to the Managed Service subject to InspHire permitting such persons to have access at InspHire Level at its absolute discretion;
- (b) authorise Authorised Users that may log or view Calls using the Internet call logging service;
- (c) ensure that the Customer's Initial Support Service is performed in accordance with the Contract;
- (d) authorise the addition of new Authorised Users of the Managed Service; and
- (e) authorise the deletion of Authorised Users from use of the Managed Service.
- 5.9** InspHire may generate and gather Use Data in the course of providing Managed Services. InspHire may publish and disclose such Use Data to third parties provided it is first anonymised.
- ## 6 Customer Data
- 6.1** In the course of providing the Managed Services, InspHire and the InspHire Personnel may need to copy, modify or adapt Customer Data or process the Customer Data. The Customer shall own and retain all rights, title and interest in and to the Customer Data. InspHire acknowledges that the Customer Data is the Confidential Information of the Customer.
- 6.2** The Customer hereby grants to InspHire and the InspHire Personnel a non-exclusive licence to use, copy, modify, adapt and/or process the Customer Data solely for the purposes of providing the Managed Service, inclusive of creating and maintaining development and testing systems utilised by the Customer or InspHire for reasons of proving and validating software issues or systems availability issues.
- 6.3** Without prejudice to Clause 5.4, but only where contractually engaged to do so as part of a Managed Service, InspHire will back up the Customer Data in accordance with the provisions of the Managed Services Process, Procedure and Responsibilities Document.
- 6.4** During the term of the Managed Services, InspHire will, on receipt of a signed quotation from the Customer either:
- (a) provide the Customer with a copy of the Customer Data held on the virtual environment including historical back-ups held on archived environments; or
- (b) subject to Clause 12.2 of the Terms and Conditions, on specific appropriate written instruction from an authorised signatory of the Customer, arrange for any Customer Data held on accessible disk storage media to be erased,
- and any such activity shall be chargeable by InspHire and paid for by the Customer on the basis of the InspHire Rates plus charges for the cost of media devices used for portable data storage.
- 6.5** Subject to Clause 6.4, each party shall bear its own costs and expenses incurred pursuant to this Clause 6.
- ## 7 Audit
- 7.1** InspHire shall, during the term of the provision of the relevant Managed Service, provide the Customer and its agents with reasonable access to the Customer Data and shall provide reasonable assistance for the purpose of the Customer or its agents:
- (a) carrying out an audit of InspHire's compliance with the Contract, or
- (b) testing the Customer Data to establish its authenticity,

## SECTION C – MANAGED SERVICES

subject to such audit or tests taking no more than four (4) hours per calendar year and any time in excess of this being chargeable by InspHire to the Customer on the basis of the InspHire Rates.

- 7.2 The Customer shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt InspHire or delay the provision of the Managed Services by InspHire.

### 8 Exit

- 8.1 InspHire will provide the Customer with such reasonable assistance as is reasonably required to effect an orderly assumption by the Customer or a replacement service provider of the Managed Service(s) performed by InspHire under the Contract (the particulars of which will be agreed by the parties, acting reasonably, after InspHire receives a written request from the Customer for such assistance), provided that the Customer is not in default of its obligations under the Contract ("Exit Assistance").
- 8.2 After receiving a written request for Exit Assistance, InspHire will provide Exit Assistance for such period as the parties may agree in writing ("Exit Assistance Period") provided that such Exit Assistance Period shall not expire any later than three months after expiry or termination of the Contract. The Customer shall reimburse InspHire for such Exit Assistance on the basis of the InspHire Rates.
- 8.3 If the Customer is in default of its obligations under the Contract, or terminates the Contract without cause or otherwise than in accordance with the Contract, InspHire shall not be required to provide any Exit Assistance to the Customer.
- 8.4 Upon termination of the Contract or a Managed Service, InspHire shall cease to have any responsibility for any Customer Data held on any provisioned media or archived environments in respect of the Managed Services in question but will continue to hold such Customer Data within such archived environments for a period of up to twelve (12) months following termination of the Contract or the relevant Managed Service ("Data Retrieval Period").
- 8.5 If InspHire receives a written request for the delivery to the Customer of the most recent backup of the Customer Data within the Data Retrieval Period, InspHire shall use reasonable endeavours to deliver the backup to the Customer as soon as reasonably practicable in the format stored at that time, provided that the Customer has, at that time, paid all undisputed Charges outstanding at, and resulting from, termination (whether or not due at the date of termination).
- 8.6 Subject to Clause 8.7 below and Clause 12.2 of the Terms and Conditions, InspHire shall, at the Customer's request, expunge from the InspHire System and otherwise destroy or dispose of all of the Customer Data in its possession or control.
- 8.7 The Customer shall reimburse InspHire for all costs of returning and disposing of Customer Data and expunging it from the InspHire Systems on the basis of the InspHire Rates.

### 9 Business Continuity Service

- 9.1 Where the Quotation specifies that Business Continuity Services (as described in the Managed Services Service Description) are to be provided, this Clause 9 shall apply.

- 9.2 The Customer will indemnify InspHire against and pay to InspHire on demand all losses and costs incurred by InspHire in relation to the rectification of damage to the Recovery Configuration and/or Recovery Location caused by any negligent or wilful act or omission by the Customer, the Customer's officers, employees, agents or contractors.

## 10 Invocation and Use of Recovery Configuration

- 10.1 Where the Quotation specifies that Invocation and Use of Recovery Configuration (as described in the Managed Services Service Description) is to be provided, this Clause 10 shall apply.
- 10.2 The Customer acknowledges and agrees that InspHire operates a commercial business continuity service and has a number of customers and accordingly in the event of Invocation of DR by the Customer and invocation by any other customer resulting in competing requests, InspHire shall have no obligation or liability to the Customer for failure to provide any access to or use of all or any part of the Recovery Configuration. If InspHire is unable to provide access to or use of the Recovery Configuration to the Customer, it shall nevertheless use reasonable commercial endeavours to make alternative business continuity facilities, equipment and/or resources available (as applicable).
- 10.3 In the event that InspHire changes the Recovery Location, InspHire will give the Customer not less than three (3) months' notice of such change. If the Customer declines to accept the change then either party may terminate the Contract with immediate effect by notice to the other and without liability to InspHire.

## 11 Disaster Recovery Service

- 11.1 Where the Quotation specifies that Disaster Recovery Services (as described in the Managed Services Service Description) or similar service are to be provided, this Clause 11 shall apply.
- 11.2 The Customer will be responsible for the removal of the Customer Data, software and where appropriate third party data, which has been placed on the Recovery Configuration by the Customer or with the Customer's knowledge, as soon as reasonably practicable and at the latest, within two (2) weeks following the restoration of the Primary location or a suitable alternative. The Customer shall use its best endeavours either to restore the Primary location as it was used prior to the Disaster or bring into operation a suitable alternative as soon as reasonably practicable. If the Customer does not comply with this Clause 11.2 (other than due to any default or delay by InspHire) then InspHire shall be entitled to charge for use of the Recovery Configuration after such time on the basis of the rates advised by InspHire to the Customer and InspHire shall not be responsible for, and the Customer shall indemnify and hold InspHire harmless, for any loss, damage or claim whatsoever caused by the Customer's failure to ensure such removal pursuant to this Clause 11.2.

## 12 Hardware Hosting Service

- 12.1 Where the Quotation specifies that Hardware Hosting Services or similar service (as described in the Managed Services Service Description) are to be provided, this Clause 12 shall apply.
- 12.2 Upon any termination of the Hardware Hosting Service or of the Contract and providing the Customer is not in breach of any of its obligations, the Customer will arrange to collect its Customer Computer Hardware within thirty (30) days. Any such hardware not collected within thirty (30) days may be disposed of by InspHire.

## SECTION C – MANAGED SERVICES

- 12.3** The Customer does not acquire any rights of occupation or any other rights in relation to the hosting premises other than the right during the term of the provision of the Hardware Hosting Services to install, operate and retain Customer Computer Hardware in areas allotted by InspHire within the hosting premises for its Hardware Hosting Service being provided by InspHire to the Customer.
- 12.4** InspHire may relocate Customer Computer Hardware within the Data Centre Infrastructure, upon written notice to the Customer. InspHire shall use its reasonable endeavours to ensure that the disruption caused to the Customer's business is kept to a minimum. Any necessary costs as a result of the relocation shall be borne by InspHire.
- ### 13 Web Hosting Service
- 13.1** Where the Quotation specifies that Web Hosting Services or similar service (as described in the Managed Services Service Description) are to be provided, this Clause 13 shall apply.
- 13.2** Subject to Clause 13.3 below, InspHire will use reasonable endeavours to ensure that, with effect from the start of use of the Web Hosting Service:
- (a) the Customer Web Site is and will remain stored on the Web Hosting Server;
  - (b) the Web Hosting Server will remain connected to and accessible via the internet; and
  - (c) the Web Hosting Server will remain in good and working order and condition to enable InspHire to comply with its obligations in this Clause 13.2.
- 13.3** The Customer acknowledges and agrees that InspHire' compliance with this Clause 13 and the provision of the Web Hosting Services may be affected by events beyond InspHire' reasonable control (including faults caused by the acts or omissions of the network provider and/or the availability of the underlying telecommunications systems) and the Customer agrees that in no circumstances shall InspHire have any liability in respect of and to the extent of such events.
- 13.4** In the event that access to the Customer Web Site exceeds the permitted bandwidth or storage allocation of the Web Space (forming part of the Customer Web Site), InspHire will be entitled (at its sole discretion) to:
- (a) increase the Charges for the Web Hosting Services to take account of the additional bandwidth or Web Space being used; and/or
  - (b) in the event only that the excess bandwidth or Web Space used by the Customer has a detrimental effect on the performance of the Web Hosting Server or any third party website situated on or served by the Web Hosting Server, suspend access to the Customer Web Site.
- 13.5** Notwithstanding any other provision of the Contract, InspHire will be entitled, without notice to the Customer, at any time, to change the bandwidth and/or storage allocation of the Web Space and to make any changes to the Web Hosting Service which are necessary to comply with any applicable safety, security or other legal requirements, or which do not materially affect the nature or quality of the Web Hosting Service.
- 13.6** If the Customer Web Site or users of the Customer Web Site are in breach of the Contract or where InspHire (acting reasonably) consider that it is necessary to do so, InspHire shall be entitled to:
- (a) suspend access to the Customer Web Site for such period as InspHire shall consider fit;
  - (b) remove all or any part of the Customer Web Site from the Web Hosting Server; and/or
  - (c) delete all or any data, files or other information that is stored on the Web Hosting Server.
- 13.7** The Customer represents, warrants and undertakes that any and all content contained in the Web Site and all information, software and materials supplied by the Customer to InspHire do not and will not at any time during the provision of the Web Hosting Services, violate any applicable laws or regulations, infringe any third party Intellectual Property Rights or otherwise violate or infringe any third party rights (such as content which is obscene, indecent, pornographic, seditious, offensive, defamatory, threatening, liable to incite racial hatred, menacing or blasphemous) ("Inappropriate Content").
- 13.8** The Customer will obtain and be responsible for obtaining and complying with all necessary permissions, consents, authorisations and licenses to use and display any and all of the content included on the web pages of the Customer Web Site.
- 13.9** The Customer will:
- (a) provide InspHire with information, data, software and materials in such form as InspHire may request from time to time. InspHire shall not be liable for any delays in relation to the provision of the Web Hosting Services resulting from the Customer's failure to fulfil its obligation under this Clause 13.9(a). InspHire shall be entitled to charge the Customer for any costs and expenses incurred by InspHire as a result of such delays or in relation to InspHire' use of any third party data, software and materials to enable it to provide the Web Hosting Services due to the Customer's failure to fulfil its obligation under this Clause 13.9 (a); and
  - (b) ensure at all times that the Customer Web Site does not and will not contain any web page containing offensive or unlawful material or links to any such material.
- 13.10** InspHire shall include only the content provided to it by the Customer on the Web Site. The Customer acknowledges and agrees that InspHire has no control over any content placed on the Web Site by visitors to the Web Site and does not purport to monitor the content of the Web Site. InspHire reserves the right to remove content from the Web Site where it reasonably suspects such content is Inappropriate Content. InspHire shall notify the Customer if it becomes aware of any allegation that the content on the Web Site may be Inappropriate Content.
- 13.11** The Customer shall indemnify InspHire against all damages, losses, costs and expenses arising as a result of any action or claim that the content on the Web Site or any other material posted to, or linked to, the Web Site constitutes Inappropriate Content.
- 13.12** The Customer acknowledges that InspHire does not warrant any response rate or download time.
- 13.13** The Customer is solely responsible for the content of any of the Customer's transmissions through the Web Hosting Services and any content which the Customer may post using the Web Hosting Services.

## SECTION C – MANAGED SERVICES

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- 13.14** The Customer agrees not to use the Web Hosting Services or its content for illegal purposes and that the Customer's use of the Web Hosting Services will not interfere with or disrupt computer networks or systems connected to, supporting or hosting the Web Hosting Services.
- 13.15** The Customer will not use the Web Hosting Services to process or transmit anything, which is or may be:
- (a) prohibited by law in any jurisdiction from where the Web Hosting Services may be accessed;
  - (b) obscene, offensive, insulting, threatening, hateful, harmful, defamatory, unlawful or indecent;
  - (c) infringing InspHire' or any third party's Intellectual Property Rights or other proprietary rights or rights in respect of Personal Data and individual's privacy;
  - (d) InspHire' Confidential information or the confidential information of any third party; or
  - (e) likely to place InspHire at the risk of prosecution or civil action or cause InspHire embarrassment or loss of reputation.
- 13.16** The Customer shall not interfere or attempt to interfere with the proper operation of InspHire' software or any Service being delivered through the Web Hosting Services. The Customer must not attempt to gain unauthorised access to InspHire' computer system or the computer system(s) of any other customer of InspHire or of any third party. The Customer may not take any action which does or may cause interruption or degradation of InspHire' services to its customers.
- 13.17** The Customer is responsible for its policy on the use of cookies. A cookie is a small file of letters and numbers that the Customer may store on its users' browsers or hard drives and contains information that is transferred to a user's hardware, often used to tell the Web Hosting Services that a user is a registered user and/or has accepted the Customer's terms and conditions.
- 13.18** All Intellectual Property Rights:
- (a) relating to the Web Hosting Services and their design shall be the property of InspHire or its licensors;
  - (b) in any works arising in connection with the performance of the Web Hosting Services by InspHire
- ("Works") shall be the property of InspHire,
- and InspHire hereby grants to the Customer a non-exclusive licence to use any such Intellectual Property Rights in order to receive the Web Hosting Services.
- 13.19** The Customer or its licensors shall retain all Intellectual Property Rights in the content of the Web Site and in any related information, software or materials provided by the Customer to InspHire, and the Customer grants InspHire a licence to use, copy and transmit such Intellectual Property Rights to the extent required to perform the Web Hosting Services.
- 13.20** The Customer shall indemnify InspHire against all damages, losses, costs and expenses arising as a result of any action or claim that the content of the Web Site or the related information, software or materials provided by the Customer to InspHire infringes any Intellectual Property Rights of a third party.
- 13.21** On termination of the Web Hosting Services or of the Contract, all licences granted by InspHire under in relation to the Web Hosting Services shall terminate immediately.
- 13.22** On expiry or termination of the Web Hosting Services or of the Contract other than termination by InspHire for cause, InspHire shall promptly return to the Customer an electronic copy of the content of the Website and all software and materials provided by the Customer to InspHire.
- ### **14 InspHire Service Partner**
- 14.1** Where the relevant Managed Service is delivered through InspHire Service Partner, additional terms and conditions may apply as identified in Quotation or the Managed Services Service Description.
- 14.2** The Customer acknowledges it will obtain a copy of such additional terms and conditions (either from the InspHire Service Partner or from InspHire on written request), read and understand prior to using any such Managed Service.
- 14.3** The Customer agrees to act in accordance with such additional terms and conditions and any breach by the Customer of such additional terms shall be a breach of this Contract.