

## PURE SYSTEMS SERVICES AGREEMENT

THIS AGREEMENT is made on the date specified in Schedule 1 between:

(1) Pure Systems Ltd, a company registered in England (no: 5991629) of Charlton House, 32 High Street, Cullompton, Devon, EX15 1AE. UK, ("PS") AND

(2) the client named in Schedule 1 or client specified in the order confirmation (the "Customer")

WHEREAS PS will provide goods and services as set out in this agreement to the Customer in consideration of the Customer paying the necessary fees. This Agreement sets out the terms and conditions that apply to the supply of those goods and services. Once signed by both parties, this document (including any applicable schedules or exhibits) will constitute a binding contract between the parties.

### 1. DEFINITIONS

"Agreement" means this document signed for and on behalf of both parties including any general terms and conditions and Schedules referred to in this document.

"Authorized Contact" or "Authorised Contacts" refers to any contact name or role provided by the Customer to PS as a Contact under this agreement. This includes, but is not limited to, the Administrative, Technical and Billing contacts.

"Authorised Signatory" means a legal company director of PS and any representative of the Customer which PS can reasonably accept is authorised to enter into this Agreement.

"Associated Companies" means a parent or subsidiary company of either party.

"Burst" means the ability of the Customer to achieve a higher rate of throughput than the Committed Rate for a short period of time (as defined in this contract).

"Cabling Monopoly" refers to a Datacentre or site which operates a policy of restrictive cabling permits which restrict the number, cost or availability of cabling suppliers within that site.

"Commencement Date" means the date on which the provision of services will commence.

"Committed Data Rate", "CDR" or "Committed Rate" means the agreed level of bandwidth, electricity or other measured commodity which the Customer has requested PS to provide.

"Customer", "you" and "your" refers to the Customer as set out in (2) above.

"Customer Equipment" means equipment belonging to or housed by the Customer at PS Datacentres or sites in order to receive the services outlined in this agreement.

"Datacentre" or "PS Datacentre" means any facility in which PS will provide the Customer with services under this Agreement.

"Datacentre Operator" means the operator of the Datacentre facility.

"Due Date" means the date that is specified for payment of invoices.

"Excess Bandwidth Fee" and "Excess Electricity Fee" means charges levied by PS in situations where a Customer exceeds its allowed or committed bandwidth or power usage levels.

“Goods” refer to any hardware sold, leased or supplied by PS to the Customer under this Agreement.

“Group” means any companies that are subsidiaries of the same ultimate holding company including that holding company itself.

“Company”, “subsidiary” and “holding company” have the same meaning in this Agreement as in Section 1159 of the Companies Act 2006.

“The Internet” means the publicly accessible global network comprising of interconnected networks using the Internet Protocol (“IP”). The Internet operates on protocols and standards defined in documents commonly referred to as RFCs as well as documents issued by Regional Internet Registries.

“Initial Period” means the period starting from when PS has begun providing any of the Services (or part thereof) under this Agreement and ending on the anniversary of this date, or as otherwise specified in Schedule 1.

"Intellectual Property Rights" means any patent, trademark, service mark, registered design, copyright, design right, right to extract or exploit information from a database, database rights, know-how, confidential information or process, any application for any of the above, and any other intellectual property right recognised in any part of the world whether or not presently existing or applied for.

“Local Internet Registry” or “LIR” means a registry which is able to assign resources it obtains from an RIR.

“PS Equipment” means any equipment owned, provided or operated by PS.

“Pure Systems Hosting”, “PS” and “we”, “our” or “us” means the supplier as set out in (1) above.

“Notice Period” means the notice period necessary to serve notice to terminate this contract. If this notice is served effectively prior to the end of the Initial Period, an “Early Termination Charge” applies.

“Office Hours” or “Normal Working Hours” means 09:00 to 17:30 London time, Monday to Friday excluding statutory public holidays.

“PDU” means a Power Distribution Unit.

“Regional Internet Registry” or “RIR” means the relevant regional registry for the resource in question.

“Registrar” means a company that sells domain names through its relationship with a Registry. In the context of this agreement, this also includes a Registrar acting as a re---seller of another Registrar.

“Registry” refers to the maintainer of the database of Internet resources including but not limited to numbering resources such as IP Addresses and domain names.

“Schedule” and “Service Order” means any document attached to this Agreement or executed by the customer separately at a later date as an additional or modified service order. Any updated Schedule or Service Order does not replace an existing Schedule or Service Order unless explicitly stated.

“Service” or “Services” refer to any services described in this Agreement.

“Additional Service” or “Additional Services” refers to any Service not provided as a recurring service but on request of the Customer.

“Service Boundary” means the point at which the responsibility of maintaining the service switches from PS to the Customer.

“Denial of Service Attack” means an attack (electronic or otherwise) intended to overwhelm or diminish the capacity of a resource to function as intended, including but not limited to a network connection or processor resource.

“PS System” means any physical connection connected into equipment operated by PS.

“Service Level Agreement” or “SLA” means the Schedule attached to this Agreement which covers the Customer’s remedies in the event that the Service fails to meet the targets set out within that Schedule.

“Storage Device” or “Storage Devices” means any removable hardware component capable of storing data permanently, including hard disks.

## 2. SERVICES

2.1. General. PS will provide one or more Services as specified on the respective Schedule in consideration of the Customer paying the relevant charges. This Agreement shall apply to any additional Schedules or Service Orders.

2.2. Supplemental Terms. The Services and associated service levels are specified in the respective Schedule or under the terms of this document. Any Schedule or related documents are intended to supplement this Agreement and where any conflict exists, the provisions of the relevant Schedule shall take precedence.

2.3. Declaration. The Customer must notify PS prior to signing this Agreement if it believes or has reasonable cause to suspect that it has ever been the subject of any Denial of Service Attack or has been the target of any campaign of harassment, unauthorised access or modification of information (hacking). Failure to disclose such matters are considered a material breach of this contract.

2.4. Reasonable Care. PS will exercise reasonable care and skill in the provision of its Services.

2.5. Monitoring. PS may, but is not required to, monitor traffic or make decisions (including decisions based on the content of the traffic) passing through its network. PS may monitor traffic for the purposes of statistics, network troubleshooting, to protect its network integrity, subject to a statutory requirement, subject to a request of assistance from law enforcement agencies in relevant jurisdictions or as otherwise reasonable taking into consideration the Customer’s right to privacy of communications.

2.6. No Deep Packet Inspection. PS warrants that it shall not monitor the content of traffic (defined as data in Layers 4 to 7 of the IP protocol) passing over its network for the purposes of direct marketing or profiling. It may carry out such monitoring for purposes set out above.

2.7. Statistics. PS shall be entitled to publish general statistics about traffic flows through its network.

2.8. Marketing. PS may use the name and logo of the Customer and briefly describe the Customer's business for marketing purposes. The Customer grants PS a limited license to use the Customer's names and trademarks for this purpose.

2.9. Copyright. Copyright of any software, scripts, configuration or documentation provided or created by PS for the Customer will remain exclusively with PS. Any such material provided to the Customer is for the use of this Service only.

2.10. Network Protection. PS may at its discretion, disconnect any Customer or make any change to any Service where it reasonably believes that the Customer's connection or Service is prejudicial to the security, stability or operation of the PS Network, including protecting it from a Denial of Service Attack or an attempt to gain unauthorised access. PS will endeavour to re-connect the Customer or reconfigure the Service as soon as such a threat is over. If PS reasonably believes that the Customer's continued use of the PS Service puts PS's Network at significant risk, PS may terminate this Agreement without penalty and refund any fees paid in respect of future services, provided the Customer has not committed a material breach. PS shall not be responsible for any losses or consequential damage thereby caused.

2.11. Burst Traffic. If the relevant Service includes a connectivity component, the Customer subscribes to a Committed Rate of bandwidth, but PS may allow the Customer the Burst above this rate ("Excess Bandwidth") for short periods. Unless otherwise specified, the traffic will be measured on 95th percentile across each calendar month, and should the actual use exceed the Committed Rate, PS may charge the customer an Excess Bandwidth Fee at 50% above its list prices or as otherwise agreed.

2.12. Power Allocation. The Customer will be allocated an amount of power for any hosting services involving hosting active Customer Equipment. The Customer undertakes not to exceed this power utilisation level without prior approval of PS. In the event that the Customer does exceed the allocated level, PS may at its discretion, disconnect equipment.

2.13. Support. PS provides customer support for its Services in line with its policies and procedures for the relevant service. The entitlement to 24 x 7 x 365 support is specifically specified in the Schedule. Unless otherwise stated, support requests outside Normal Working Hours are restricted to genuine emergencies. Genuine emergencies are defined by lack of connectivity, failed hardware resulting in lack of connectivity or web site uptime and packet loss greater than 10%. The packet loss must exist on either PS network or a directly peering network.

2.14. Datacentre. The Customer accepts that PS may require that the Service be moved to another site within the same Datacentre (building) or to another Datacentre of similar specification due to its contracts with Datacentre Operators. PS will always use reasonable endeavours to provide a service in the same site if requested. In such situations, PS will provide limited free assistance with arranging such a move, but the customer may be required to contribute to any cabling or re-provisioning costs that PS must bear on its behalf.

2.15. Procedures. The Customer will follow any relevant policies and procedures that PS and its suppliers may implement from time to time in relation to its services, premises and access/use thereof.

2.16. Datacentre access. Where a Customer subscribes to a Service that includes access to the Datacentre in which Customer Equipment is housed, the Customer will provide PS with at least 24 hours' notice where possible. In emergencies, the customer shall be entitled to immediate access.

2.17. Disconnection. PS may disconnect, limit or suspend all or part of the Services provided to the Customer in the event that a Customer fails to pay amounts due within the agreed credit terms or where it has reasonable cause to believe that the Customer's use of the Service is in breach of this Agreement. It shall endeavour to contact the Customer prior to doing so where possible.

2.18. Free Migration. Although PS will take every precaution in order to provide a seamless migration for clients we cannot guarantee the migration will be completely error free without complete participation from the client and/or end user.

### 3. INTERNET RESOURCES

3.1. General. The Customer may request PS to provide it with Internet Resources that allow it to carry out certain activities on the Internet. PS may levy appropriate charges from time to time for such resources.

3.2. IP Addresses. In the event that a Customer takes a hosting service, it would be assigned IP addresses (including either IPv4 and/or IPv6 addresses) to use on its devices by PS acting as a Local Internet Registry. All such assignments are subject to criteria set out by the Regional Internet Registry in the respective region. In accordance with our obligations to RIPE NCC, we would like to draw your attention to the following warnings regarding IP space:

3.2.1. Assignment of this IP space is valid as long as the criteria for the original assignment are met and only for the duration of the service agreement between yourself and us. We have the right to reassign the address space to another user upon termination of this agreement or an agreed period thereafter. This means that you will have to re---configure the addresses of all equipment using this IP space if you choose to migrate to another supplier. We also have a right to require you to re-number to another range of IP addresses.

3.3. AS Numbers. We can also request AS Numbers on your behalf from an RIR. These remain valid as long as the original assignment criteria are met. These are also subject to the RIPE NCC assignment policies.

3.4. Domain Names. PS provides domain registration, renewal and management services for its customers.

3.4.1. The Customer hereby agrees that PS is acting as the Customer's agent and may on the Customer's behalf agree to any terms and conditions in force at the time of this Agreement or any update thereof with any reseller, Registrar or Registry as required to complete any transactions.

3.4.2. The reseller, registrar and registry terms and conditions applicable to domain services may be subject to agreements which are enforceable outside of the jurisdiction of this Agreement. Copies of such agreements are available from PS at the Customer's request.

3.4.3. The liability of PS in respect of any domain registration services is limited to the lower of the charges levied against the respective domain name in the previous five years or other limits specified in this Agreement.

3.4.4. The Customer must keep PS updated with its up---to---date contact details in relation to domain names and ensure such changes are reflected at the Registry. The Customer also indemnifies PS against any case brought against it on the grounds of rights infringement relating to any name which the Customer has instructed PS to register.

3.4.5. Unless otherwise agreed, all domain names registered by PS are registered in the name of the Customer. The Customer is therefore entitled to re---assign the name to another technical authority if they end this Agreement provided all charges due under this Agreement have been settled.

3.4.6. Sub-domains. In the event that PS assigns a customer a 'sub-domain' from a domain registered to PS or a third party, the customer acknowledges that it has no on-going rights in respect of such names and that PS may withdraw such names at any time, without notice.

#### 4. GOODS

4.1. PS will supply Goods to the Customer in relation to agreed orders that may be made verbally or in writing (including electronically or by facsimile) by an Authorised Contact. The Customer acknowledges that PS provides a limited warranty and excludes all its liabilities and warranties to the maximum extent permitted by law. PS does not make representations of the suitability of Goods for a particular purpose.

4.2. In the event that the cost of acquiring the goods has increased beyond 15% of original cost from the order to the delivery, PS reserves the right to increase the price charged to the Customer. The Customer may continue with the order at the new price or cancel without penalty.

4.3. Retention of title. The ownership and title of any Goods supplied by PS to the Customer will remain exclusively with PS until all amounts relating to such have been paid. The Customer will ensure that such Goods are properly marked, kept in good working condition and insured against loss or damage and that the insurance policy includes a provision allowing PS to claim against such a policy. The Customer will not sell or otherwise dispose of any Goods until they have been paid in full.

4.4. Export Restrictions. The Customer agrees not to export any Goods from the European Union or European Economic Area to any country, export to which may be contrary to English law, EU law or the laws of any country from which the Goods originated.

#### 5. LIMITATION OF LIABILITY

5.1. General. The following provisions set out the entire liability of each party (including, without limitation, any liability for the acts and omissions of their respective employees, officers, agents or subcontractors) to the other in respect of any act or omission, including any breach by that party of its contractual obligations under this Agreement; any breach of statutory duty or restitution; and any representation, statement or tortious act or omission including (without limitation) negligence, wilful default and/or negligent misrepresentation, arising under or in connection with this Agreement.

5.2. Except as set out in this Agreement, PS hereby excludes to the fullest extent permissible in law, all conditions, warranties and stipulations, whether express or implied, statutory, customary or otherwise which, but for such exclusion, would or might subsist in favour of the Customer.

5.3. Nature of Internet. The Customer acknowledges that the use of the Internet is at its sole risk and that PS does not have exclusive control over the content that may travel through its network. PS shall not be liable for any transmission of or infection by a virus, trojan or other malicious software.

5.4. Warranty. PS does not warrant that its Service will be uninterrupted, error-free or that any data passing through it is accurate, complete or meets any particular standards except as set out in the Service Level Agreement.

5.5. Third Parties. PS has no responsibility or liability to the Customer for any claim against the Customer by any third party.

5.6. Additional Services. PS may procure services on behalf of the Customer from third parties (including its suppliers). In such cases, PS's service is provided "as is" without warranty of any kind, whether expressed or implied.

5.7. Aggregate Liability. PS's maximum aggregate liability in any twelve month period in respect of any single event or a series of events whether connection or unconnected arising out of or in connection with this Agreement whether in contract, tort (including negligence or breach of statutory duty) or otherwise, shall in no circumstances exceed the amount paid to PS by the Customer in the previous twelve months in respect of the relevant Service, or if the agreement has been in force less than twelve months, the lesser period. This Agreement does not exclude or limit PS's liability for personal injury or death.

5.8. Consequential Losses. In no event shall PS be liable for any consequential losses, actual or potential loss of income, profit, revenue or data including without limitation any indirect or special loss or damage of any kind howsoever arising and whether caused by tort (including negligence), breach of contract or otherwise. PS will take all reasonable steps to avoid negligence.

5.9. Sole Remedy. Where the Service levels have failed to meet the standards set in the Service Level Agreement for a period of ninety (90) days, the Customer's sole remedy is the termination of this contract. PS shall have no further liability to the Customer.

5.10. Scope. PS shall not be responsible for any liability arising out of actions of the Customer, the Customer's employees, agents, subcontractors, suppliers, clients or users; nor shall it be responsible for the Customer's inability to access any part of the Internet outside of PS's network.

5.11. SLA. PS does warrant that it shall maintain in place connectivity (directly or indirectly) to one or more major Internet Exchange Points. Any breach of this clause will be handled under the Service Level Agreement provisions. The PS SLA can be found at <http://www.puresystems.co.uk/portals/0/downloads/legal/Hosting-SLA.pdf>

5.12. Law Enforcement. PS shall not be liable for any actions it takes (including suspension of service) pursuant to a request by a law enforcement agency or governmental body.

5.13. Equipment. The Customer warrants that it has taken out appropriate insurance to cover any Customer Equipment hosted or housed within a PS Datacentre or facility which covers all risks including damage by PS, its staff, suppliers, contractors or other customers. The Customer acknowledges that this is a fair clause since it is in a better position to insure against such a risk.

## 6. INDEMNIFICATION

The Customer shall indemnify, defend and hold harmless PS, its directors, officers, agents, employees, subcontractors, representatives, landlords and suppliers for any claims, loss, damage, expense (including reasonable legal fees and court costs on an indemnity basis), liability (including liability for infringement of a third party's intellectual property rights), personal injury, death or

property damage caused by or arising from the content of any communication transmitted via the Service or maintained in connection with any Goods provided under this Agreement; or the acts or omissions of the Customer or a third party, including their respective employees or representatives, in connection with the Goods and Services of this Agreement.

## 7. INSURANCE

7.1. If the Customer subscribes to any services involving housing of any Customer Equipment at PS Datacentres or other premises managed by PS, the Customer shall prior to the Commencement Date, at its own cost, maintain in force, or procure the taking out and maintenance of the "Required Insurance Policy" compliant with the provisions of this clause and any other insurances as may be required by law. The Customer shall not permit anything to occur that may entitle the insurer to refuse to pay under any claim brought under this Agreement or otherwise prejudice the Required Insurance Policy.

7.2. The Customer shall ensure that the Required Insurance Policy contains provisions:

7.3. Providing for coverage in force with a limit of indemnity of not less than two million pounds (£2,000,000) in any one occurrence/unlimited in the number of occurrences in a policy period; and

7.4. that it operates, save for the limit of indemnity as defined above, in the same manner as if there was a separate policy with and covering each insured party without right of contribution from any other insurance which is carried by an insured party.

7.5. The Customer shall provide to PS appropriate evidence from a reputable insurer or insurance broker which is directly regulated by the UK Financial Services Authority confirming that the Customer has in place adequate insurance coverage as required under this Agreement and that all premiums due have been paid and that such insurance is in full force and effect. The Customer shall provide any renewal certificate or other documentation as reasonably required by PS to verify the Customer's continuing compliance thereof as soon as possible.

7.6. The Customer shall give PS immediate and full notice of any claim or potential claim concerning this Agreement which could be brought under this Agreement and shall use its best endeavours to minimise and mitigate any losses that could result.

7.7. Neither the failure to comply nor full compliance with this clause by the Customer shall in any way limit or relieve the Customer of its liabilities and obligations under this Agreement.

7.8. PS will maintain with a reputable insurer a policy in respect of its business covering Employers' Liability (with respect to its own employees) and Public Liability with a level of indemnity not less than two million pounds (£2,000,000).

## 8. CHARGES

8.1. The Customer shall pay PS for the Goods and Services ordered under this Agreement including any relevant Schedule and any additional costs reasonably incurred on its behalf.

8.2. The Customer shall pay PS an Excess Electricity Fee and/or an Excess Bandwidth Fee if its use of either resource is above the Committed Rate.



8.3. The Customer may request PS to provide Additional Services in addition to those specified in this Agreement. If PS (in its absolute discretion) provides such services, it shall be entitled to charge the Customer for the provision of such services on a time and materials basis in accordance with the hourly fees as notified to the Customer from time to time and will be deemed to undertake such work on under the terms in this Agreement.

8.4. Payment. The Customer shall pay any setup/installation fees and fees in respect of the first period at time of order and any fees in respect of subsequent periods within agreed credit terms from the invoice date, such invoices being raised to become due prior to beginning of each period of service.

8.5. PS shall invoice the customer in arrears for any additional charges including any support, burst or excess fees that will become due within the agreed credit period or 14 days whichever is the longer.

8.6. A payment will be regarded as received on the day a sterling cheque drawn on a UK bank is presented to PS, when a credit or debit card payment is made or when an electronic bank transfer is received by PS's bankers. PS may specify the method by which payment must be made.

8.7. Bank Charges. The Customer will be liable for all bank charges incurred by PS as a result of any bank transfer, where such charges are in excess of the standard charges for payments made in Sterling from and to a UK bank account. The Customer shall also be liable for any charges incurred by PS in respect of any credit/debit card chargeback, returned cheques or reversed bank charges and to pay PS an administrative fee of £50 per returned/reversed transaction in addition to any other remedies available to PS.

8.8. VAT. All charges pursuant to this Agreement are exclusive of VAT and any other applicable taxes which shall be paid by the Customer at the prevailing rates.

8.9. Late Payment. In the event that the Customer does not pay the amounts owed within credit terms, PS may charge a Statutory Late Payment fee under the Late Payment of Commercial Debts (Interest) Act 1998 in addition to charging interest at 2% above the interest rate in force at the time with Barclays Bank Plc. or an equivalent banker of its choosing.

8.10. Deposit. PS may require the Customer to provide a deposit as security against charges for Goods or Services as reasonable from time to time. In the event of termination, PS will return the deposit (less any amount disputed or owed) within sixty (60) days of the termination of the Agreement, or expiry of any remaining service obligations, whichever is later.

8.11. Support Fees. PS's Service is complex in nature and it may not be possible to determine the cause of a problem quickly. The Customer accepts that where it reports a service problem to PS which upon investigation is shown to be outside of PS's scope of service (and the scope of service shall be as obtained by the Customer from PS in accordance with Schedule 1), PS may charge the Customer a reasonable fee for the time and resources necessary to investigate the report. These fees may be increased by 100% where the Additional Service is provided by PS outside of Normal Working Hours.

8.12. Inflation. PS may at its discretion, but no more than once in any calendar year, vary the recurring charges under this Agreement provided that the percentage increase shall be no greater than an amount equivalent to any increase in the Retail Prices Index (or any replacement index) published by the Government or competent authority at any time in the past twelve months plus

two percent (2%). PS may vary the pricing under this clause across the entire contract or in respect of specific services, as long as it does not do so more than once every calendar year for each service.

8.13. Regulation. In the event of any change in applicable law, regulation or Datacentre costs that materially changes the cost of delivery of the Service, PS shall give the Customer written notice thereof and the Customer shall have thirty (30) days to accept or tender notice of termination. Service provided after said thirty (30) day period shall be at the increased rate. If the increase is in excess of 10% of the previous rates of recurring fees and the Customer chooses to terminate the affected Service, any such termination shall not trigger otherwise applicable Early Termination Charges as referred to in the Termination provisions set forth in this Agreement.

8.14. Electricity Prices. PS may vary any charges which relate directly or indirectly to the cost of electricity it is charged for by its suppliers. The cost of power shall be deemed to include the costs of any Carbon Reduction Commitment allowances or any similar levy incurred by PS or its suppliers in the operation of the Datacentres from which the Services are provided.

8.15. Additional Services. PS may raise the charges for Additional Services with thirty (30) days' notice, including within the Initial Period.

8.16. Errors. The Customer will notify PS within fourteen (14) days of receipt of an invoice of any dispute, error or if it requires clarification on any item.

8.17. No Set-off. All sums due to PS under this Agreement will be payable without any deduction, set-off, restriction or condition and PS shall be entitled to obtain and enforce judgement thereon without any deduction or stay of execution pending the determination of any counterclaim by the Customer.

8.18. Unauthorised Use. PS is not obliged to detect or report unauthorised or fraudulent use of the Service. The Customer remains solely responsible for all charges incurred through or as a result of fraudulent or unauthorised use of the Service.

8.19. Suspension of Service. In the event that a Service (or part thereof) is suspended by PS due to the Customer's breach of this Agreement, the Customer shall remain liable for all charges that would be due as if the Service had not been suspended.

## 9. CONFIDENTIALITY

9.1. Definition. "Confidential Information" as used throughout this Agreement means any secret or proprietary information relating directly to the PS or the Customer and that of their affiliate companies, subsidiaries employees or agents are similarly bound, including but not limited to the terms of this agreement, information clearly labelled "confidential", product details, customer lists, pricing policies, employments records and policies, operational methods, marketing plans and strategies, product development techniques, designs, inventions, research programs, trade secrets, software, source code, system settings and configuration, security implementations, identification and login details, the contents of this agreement, accompanying documents and any future agreements that may be made between the parties.

9.2. Non-disclosure. The parties will use all reasonable efforts not to reveal, divulge or make known any Confidential Information third parties during the term of this Agreement and for a period of six (6) years from the date of the end of this Agreement, unless it is required to do so by law or a court

of competent jurisdiction (and it has, where possible, provided reasonable notice to the other party), or the other party has given written consent for the release of such information.

9.3. Exceptions. PS may at its discretion aid law enforcement authorities in any investigation of possible unlawful activity. PS may also disclose to its suppliers or other customers the identity of the Customer in the event of interference to the equipment belonging to such third parties. Each party may disclose Confidential Information to its Associated Companies, staff, directors, officers, solicitors, accountants, professional advisors, insurers and/or lenders, provided that each party shall ensure such persons are bound by similar obligations of confidentiality as set out in this Agreement.

9.4. Return of Material. Upon termination of this Agreement, each party will return to the other party or destroy any Confidential Information which is no longer required for the fulfilment of obligations under this Agreement. Each party shall, on request, confirm this has been done and provide undertakings to this effect.

9.5. Remedy. Both parties agree that a breach of the preceding confidentiality clauses may cause the other party to suffer irreparable damage that could not be adequately remedied by an action at law. Accordingly each party agrees that the other party shall have the right to seek specific performance of the provisions of this section to enjoin a breach or attempted breach of the provision thereof, such right being in addition to all other rights and remedies that are available to each party at law, in equity, or otherwise.

## 10. ACCEPTABLE USE POLICY

10.1. Prohibited Use. Please review our Acceptable Use Policy (AUP) on our web at <https://www.puresystems.co.uk/portals/0/downloads/legal/Acceptable-use-policy.pdf>

## 11. SOFTWARE LICENSING

11.1. General Licensing. The Customer remains responsible for all software licensing on any equipment hosted with, purchased from or otherwise managed by PS unless it is explicitly agreed otherwise in writing.

11.2. Where PS has agreed to provide software licenses to the Customer, the Customer authorised PS to enter into relevant license agreements required to acquire a license to use the software. PS shall provide copies of such licenses on request. The Customer accepts that by using or maintaining a service, it has agreed to such license agreements.

11.3. Service Provider Licensing. Where PS provides a license under a 'Service Provider Licensing Agreement' (SPLA), the conditions of a license prohibit its use on any equipment other than those owned or leased by PS. The Customer acknowledges that such licenses are not transferable should they decide to terminate this Agreement and transfer their services to a third party.

## 12. LIEN

12.1. The Customer grants PS a lien over all Customer Equipment to secure all sums due, owing or incurred to PS under this Agreement and such lien shall continue and PS shall be entitled to take

possession of all Customer Equipment (and the Customer shall not be entitled to access or remove such equipment from the building) until PS has received all such sums in cleared funds.

12.2. In the event that fees remain unpaid for longer than ninety (90) days past due, PS may at its discretion remove and dispose of the Customer Equipment to cover the costs of the outstanding amounts, including any interest due and owing on the outstanding amount. PS will return any surplus from such disposal to the Customer and be entitled to pursue the Customer for any amount that remains outstanding less the costs the company incurs on a full indemnity basis in respect of any disposal or storage charges.

### 13. FORCE MAJEURE

13.1. Neither party shall be liable for any delay in performing or failure to perform its obligations (other than a payment obligation) under this Agreement due to any cause outside its reasonable control including, but not limited to, acts of God, war or military operations, industrial disputes, protests, fire, flood, lightning, storm, drought, other severe weather, tempest, explosion, compliance with statutory obligation, failure or shortage of power supplies, supplier failure, acts or omissions of government or regulators, highways authorities, third party telecommunications operators and/or suppliers or other competent authority, an act of terrorism, national emergencies or restrictions of access to any relevant premises or movement arising from pandemic, compliance with any statutory obligations, industrial disputes of any kind other than those to which PS or Customer is a party or any other cause beyond the Parties' reasonable control. Such delay or failure shall not constitute a breach of this Agreement and the time for performance of the affected obligation shall be extended by such period as is reasonable.

13.2. Each party shall make commercially reasonable efforts to prevent any interruption, failure or delay caused by any of the above---mentioned circumstances, to minimise any such interruption, failure or delay as may be caused thereby, and to do all. 13.3. In the event that a force majeure event under this Agreement prevents the fulfilment of an obligation thereof for a period of ninety (90) days or more, either party may terminate this Agreement forthwith without incurring any further liability.

### 14. INTERPRETATION

14.1. Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, arrangements, representations and undertakings between PS and the Customer, oral or written, in respect of its subject matter.

14.2. The Customer acknowledges that in entering into this Agreement it does not do so on the basis of and does not rely on any representation, warranty or other provision except as expressly provided in this Agreement. PS hereby excludes all conditions, warranties or other terms implied by statute or common law to the fullest extent permitted by law.

14.3. Modifications. Any addition or modification to this Agreement may only be made in writing and signed by an Authorised Signatory of each party unless otherwise expressly specified herein. Changes made to the text of this agreement will be invalid unless explicitly authorised by PS. For avoidance of doubt, a new Schedule or Service Order constitutes a variation of this Agreement if so indicated.

14.4. Headings. The headings in this agreement are ease of reference only and do not form part of the Agreement.

14.5. No Waiver. Failure or delay by either party in exercising any of its rights under this Agreement shall not be deemed to be a waiver of that right. The parties' rights shall be deemed cumulative, such that the exercise of one right or remedy shall not preclude the exercise of others, including any rights or remedies available to it by law or in equity. The terms of this Agreement do not affect the Customer's statutory rights.

14.6. Severability. If any provision of this Agreement or its application is held to be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of any of the other provisions and applications therein shall not in any way be affected or impaired. The invalid provision shall be deemed modified to the least degree necessary to remedy such invalidity and maintain the parties' original intent.

14.7. Jurisdiction. This Agreement shall be governed by English law and all parties hereby irrevocably submit to the exclusive jurisdiction of the English courts.

14.8. Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed will constitute one and the same instrument.

14.9. Possession. Nothing herein contained is intended to create a tenancy or lease of any cabling, property, space or any part thereof. PS does not grant any right for the Customer to occupy any property and the Customer has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations or ordinances. It is in PS's and its suppliers' sole discretion to suspend the right of any Customer representative or other person to visit any Datacentre or facility.

14.10. Third Party Rights. The parties to this Agreement do not intend any of its terms will be enforceable by virtual of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

14.11. No partnership. Nothing in this Agreement shall create or be deemed to create a partnership or joint venture. The relationship of principal and agent is adopted between the parties.

## 15. ASSIGNMENT

15.1. The Customer shall not transfer or assign this Agreement or any of its rights or obligations hereunder without PS's prior written consent, which will not be unreasonably withheld. The Customer will remain liable for any non-payment by its assignee or transferee. PS may transfer its rights or obligations under this Agreement by notice to the Customer.

## 16. NOTICES

16.1. All notices under this Agreement shall be served in writing and sent to the address on record as set out in this Agreement or to the registered office as recorded by the Registrar of Companies (for companies registered in the United Kingdom).

16.2. Any such notice shall be deemed served as follows:

16.3. By first class post - within two working days of posting

16.4. By hand delivery - at time of delivery

16.5. By facsimile or e-mail - immediately upon transmission to recipient's fax machine or mail server provided sender does not receive any indication the transmission or e-mail has not been successfully transmitted to the intended recipient's fax machine or e-mail server.

16.6. Each party shall use reasonable endeavours to ensure that the other party has received any notice. This may be achieved, for example, by sending notice by two methods, or by also contacting the other party by telephone.

16.7. The Customer accepts that PS may from time to time need to take action in accordance with this Agreement where it is not practical to give notice in advance. In such cases, PS will make reasonable efforts to notify Customers as soon as possible after any such events.

## 17. NON SOLICITATION

17.1. Each party agrees that during the term of this Agreement and for a period of two (2) years following its termination, it shall not directly or indirectly solicit, or offer employment or engagement to, any of the other party's staff who is at the time of such action or was during a period of twelve (12) months immediately preceding such action directly involved in the carrying out of any obligations under this Agreement without the other party's prior written agreement.

## 18. COMMENCEMENT & TERM

18.1. Commencement. This Agreement shall commence on the Commencement Date set out in Schedule 1 or an earlier/later date when PS begins to supply any part of Goods or Services set out in this Agreement.

18.2. PS shall use reasonable endeavours to have the Services ready by the Commencement Date, however the Customer acknowledges that in order to carry out the obligations under this Agreement, PS may be required to enter into new contracts to retain facilities with its suppliers or make other arrangements which may delay the commencement of the service. If such a delay is greater than sixty (60) days, the Customer may cancel this contract without penalty (save as any costs incurred by PS on behalf of the Customer up to that point), provided it does so, by seven (7) days' notice.

18.3. Continuity of Service. Any Services under this Agreement shall continue unless and until terminated by either party giving not less than the specified notice under Termination Notice Period in the relevant Schedule.

18.4. Initial Period. In the event that the Customer terminates this Agreement prior to the expiry of the Initial Period as defined in the relevant Schedule, the Customer shall pay an Early Termination Charge of one hundred percent (100%) of its recurring charges for the remainder of the Initial Term, unless it exercises its right to terminate under clause 19.1.1 below.

18.5. In the event that PS terminates this service under clauses 19.1.1, 19.1.2 or 19.1.4 prior to the end of the Initial Period, the Customer shall pay an Early Termination Charge equivalent to one hundred percent (100%) of its recurring charges for the remainder of the initial Term.

## 19. TERMINATION

19.1. This Agreement may be terminated as follows:-

19.1.1. by either party by notice in writing to take effect immediately if the other party summons a meeting of its creditors, makes a proposal for or becomes subject to any voluntary arrangement, is unable to pay its debts within the meaning of section 123 Insolvency Act 1986, has a receiver, manager or administrative receiver appointed over any of its assets, undertakings or income, has passed a resolution for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation previously approved in writing by the party serving notice), is subject to a petition presented to any Court for its winding-up (save for the purpose of a voluntary reconstruction or amalgamation previously approved in writing by the party serving notice), has a provisional liquidator appointed, has a proposal made for a scheme of arrangement under section 425 Companies Act 1985, has an administrator appointed in respect of it or is the subject of an application for administration filed at any court or a notice of appointment of an administrator filed at any court or a notice of intention to appoint an administrator given by any person or is the subject of a notice to strike off the register at Companies House or analogous events in other jurisdictions; or

19.1.2. by either party by notice in writing to take effect immediately if the other party is in material breach (or a series of connected breaches which taken together constitutes a material breach) of this Agreement and, where the breach is capable of remedy has failed to remedy such breach within fourteen (14) days after service of a written notice from the party not in breach specifying the breach, and requiring it to be remedied. For the avoidance of doubt, a breach of section 10 above shall be considered a material breach; or

19.1.3. by either party by serving the required notice specified under Termination Notice Period in the relevant Schedule (subject to an Early Termination Charge); or

19.1.4. by PS in the event that a Customer is in breach of its obligations to pay all amounts due in a timely manner.

19.1.5 If no termination period is specified a period of one month's notice will apply from the next billing date. The Customer will be responsible for all fees during this period.

19.2. Initial Term. If the Service is terminated effective prior to the end of the Initial Term, the Customer will pay an Early Termination Charge of one hundred percent (100%) of its recurring charges for the remainder of the Initial Term, unless the Customer terminates as a result of PS's material breach, or PS terminates other than by reason of Customer's breach.

19.3. Possession. In the event that Customer fails to pay PS all amounts owed in a timely manner, the Customer agrees that PS may take possession of any Customer Equipment, store it at the Customer's expense, until taken in full or partial satisfaction of any lien or judgment; or liquidate the property in a commercially reasonable manner, upon notice and apply the proceeds to any amounts due under this Agreement. The Customer will remain liable for any shortfall following any such disposal and any excess funds will be returned to the Customer. PS may charge for its time in undertaking such disposal operations at its usual rates or commercially reasonable equivalents (whichever is higher). PS will undertake reasonable efforts to ensure that Customer Equipment is stored securely, but the Customer remains liable for any damage or loss.

19.4. Storage Devices. PS will take reasonable steps to either: (1) erase any data on Storage Devices, (2) return any Storage Devices to the Customer or offer to allow the Customer to collect them, or (3)

destroy any Storage Devices prior to disposal; the reasonable costs of doing so in all cases being charged to the Customer.

19.5. Miscellaneous. Restrictions imposed under sections 9 and 17 and any other provision of this Agreement that creates a continuing obligation or liability will survive the termination of this Agreement.

19.6. Confidential Information. Each party shall destroy all Confidential Information following the termination of this Agreement save as information which is necessary for any remaining duties including any requirement to keep accounts and records, and to ensure compliance with this Agreement.

19.7 Abuse towards Staff. PS does not tolerate physical and verbal abuse towards its staff. Should a client become abusive by telephone, in person or by email PS may terminate the contract with immediate effect. PS will not be liable for any costs incurred following the account termination.