

# Swift Tech

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## Managed Service Agreement

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(1) Swift Tech Response LTD

&

(2) [Organisation name  
(organisation name)]

DATE [Short today's date (datetime today\_short)]

**BETWEEN:**

- (1) Swift Tech Response LTD, a company registered in England and Wales under the number 15218035 whose registered office is Josephs Well, Hanover Lane, Leeds, United Kingdom, LS3 1AB and
- (2) [Organization name (organization name)], [Organization ID (organization id)], [Organization address (organization address)]

**BACKGROUND:**

- (A) Swift Tech Response LTD has developed and is in the business of providing IT-managed services together with associated services.
- (B) The Customer wishes to use Swift Tech Response LTD managed services and associated services in its business operations.
- (C) Swift Tech Response LTD has agreed to provide, and the Customer has agreed to take and pay for, the Managed Services and Managed Service Solutions (as defined below), subject to the terms and conditions of this Agreement.

**AGREED TERMS:**

**1. Definitions**

In this Agreement the following terms shall take the meanings ascribed to them:

**"Agreement"** this Agreement and any schedules to it;

**"Business Day"** is any day that is not a Saturday, Sunday, or Public holiday in England and Wales

**"Confidential Information"** information which is of a proprietary or confidential nature in whatever form which is or may be regarded by a reasonable business person to be confidential (whether marked as confidential or not) and which is disclosed directly or indirectly, whether before, on or after the Commencement Date, by one party to the other party (including by or to any Relevant Persons) in furtherance of or pursuant to this Agreement;

**"Commencement Date"** is the start date for the provision of the Managed Services set out in Schedule 2;

**"Customer Data"** any data (including Personal Data) created or used by the Customer in operating its business (including data relating to the employees, clients, or suppliers of the Customer) which is processed, stored, or accessed by Swift Tech Response LTD;

**"Data Protection Legislation"** means the Data Protection Act 2018 and the GDPR Legislation.

**"GDPR Legislation"** means the retained EU law version of General Data Protection Regulation 2016 (UK GDPR);

**“Implementation Fees”** means the fees payable to Swift Tech Response LTD for the implementation and ongoing management of the Managed Service Solution as set out in Schedule 2;

**“Initial Subscription Term”** the initial subscription term is defined in Schedule 2;

**“Personal Data”** has the meaning set out in the Data Protection Act 2018 or the GDPR Legislation;

**“Relevant Person”** means:

- (b) the employees of a party, and
- (b) any sub-contractors, advisors, and agents of a party but only where strictly necessary and in order to support and advise that party;

**“Managed Services”** the managed services provided by Swift Tech Response LTD set out in Schedule 1 Part 1:

**“Managed Service Solution Fees”** means the fees payable for the Managed Service Solution and the ongoing managed services as set in Schedule 2;

**“Managed Service Provider”** means the provider(s) of the Managed Services;

**“Managed Service Solution”** means the managed service solution provided by Swift Tech Response LTD and the applicable Manager Service Provider(s) as set out in Schedule 1 Part 2:

**“Managed Service Solution Terms”** are the terms applicable to the Managed Service Solution listed in Schedule 3;

**“Schedule”** a Schedule to this Agreement;

**“SLA’s”** are the service levels for the Managed Services as set out in Schedule 4;

**“Subscription Term”** means the Initial Subscription Term and any renewed subscription term.

- 1.1. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.2. Unless the context otherwise requires, words in the singular include the plural and, in the plural, include the singular and a reference to one gender includes a reference to the other genders.
- 1.3. A reference to “in writing” or “written” includes faxes and emails.
- 1.4. Where express or specific agreement, consent, or permission needs to be provided it shall be done in writing.
- 1.5. Where the words “include(s)”, “including” or “in particular” are used in this Agreement, they are deemed to have the words “without limitation” following them.

- 1.6. In this Agreement, in the event of any conflict between any of the provisions of the main body of this Agreement and any Appendices, the provision in the main body of this Agreement shall prevail save where it is clearly intended otherwise.

## **2. Managed Services**

- 2.1. Swift Tech Response LTD agrees to:
  - 2.1.1. Arrange the Managed Service Solution.
  - 2.1.2. provide the Managed Services.
  - 2.1.3. pay the Managed Service Solution Fees; and
  - 2.1.4. report to the Managed Service Provider any issues which Swift Tech Response LTD cannot resolve, or which fall outside of the Managed Services.
- 2.2. Swift Tech Response LTD agree to pay the Managed Service Solution Fees on the Customer's behalf:
  - 2.2.1. the Customer must pay these to Swift Tech Response LTD promptly and in any event at least 14 days before the next Subscription Term, and
  - 2.2.2. where a Managed Service Provider changes its Managed Service Solution Fees then the Customer shall pay the revised feesFailing which Managed Service Provider may suspend or terminate the Managed Solution and/or Managed Service Solutions.
- 2.3. Swift Tech Response LTD shall provide the Managed Services in a professional manner in accordance with accepted industry practices or standards, in accordance with this Agreement.
- 2.4. Subject to Clause 2, if the Managed Services do not conform with the undertaking in Clause 2.3 endeavours to correct any such non-conformance promptly or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking in Clause 2.3.
- 2.5. Swift Tech Response LTD does not warrant that the Customer's use of the Managed Services and/or Managed Service Solution will be uninterrupted or error-free or will be free from vulnerabilities and Swift Tech Response LTD is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, or failures or delays involving hardware, software, power or other systems and the Customer acknowledges that the Managed Services and/or Managed Service Solution may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
- 2.6. Any errors, issues, or downtime caused by the Managed Service Solution may impact Swift Tech Response LTD, and Swift Tech Response LTD will liaise directly with the Managed Service Solution Providers to resolve such issues.
- 2.7. Swift Tech Response LTD shall not be liable if the Managed Services fail to the extent that such failure is wholly caused by unauthorized modifications made to the Managed Services Solution by or on behalf of the Customer.

- 2.8. The Managed Services shall be made available by Swift Tech Response LTD, subject to any unavailability caused by circumstances beyond Swift Tech Response LTD reasonable control including any computer, tablet, communications (including mobile communication network(s)), internet service or hosting facility failures or delays involving hardware, software, power or other systems not within Swift Tech Response LTD
- 2.9. The Managed Services may be temporarily limited, interrupted, or curtailed due to maintenance, repair, modifications, upgrades, or relocation. Swift Tech Response LTD shall notify the Customer as soon as is reasonably possible of any such limitation, interruption, or curtailment. Swift Tech Response LTD shall have no liability whatsoever in relation to the unavailability of the Managed Services due to the events detailed in this Clause.
- 2.10. Any timelines, timetables, and/or dates specified for delivery or availability of the Managed Services and/or a Managed Service Solution are indicative only. Time shall not be of the essence unless expressly stated as such.
- 2.11. Where the delivery of the Managed Services is conditional upon the Customer's timely actions then any delay by the Customer shall entitle Swift Tech Response LTD to extend any delivery dates by an equivalent period of time. If such delay results in Swift Tech Response LTD incurring unavoidable additional costs then it shall be entitled to recover the same from the Customer. Where reasonably possible, Swift Tech Response LTD shall re-allocate resources to avoid or minimize any additional costs.
- 2.12. The Customer shall notify Swift Tech Response LTD as soon as possible if there is anything likely to frustrate or delay the Customer's performance of its obligations including where this could affect the timetable for the implementation of the Managed Service Solution.
- 2.13. Swift Tech Response LTD reserves the right, in its absolute discretion, to:
  - 2.13.1. modify the Managed Service Solution, its network, system configurations, or routing configuration; or
  - 2.13.2. modify or replace any Managed Service Solution in its network or in equipment used to deliver any Managed Service over its network, provided and to the extent that this has no adverse effect on Swift Tech Response LTD's ability to perform its obligations under this Agreement and its provision of the Managed Services or the SLAs. If such changes will have an adverse effect, Swift Tech Response LTD shall notify the Customer and the parties shall implement any necessary changes to the Managed Services through the Change Control Procedure.
- 2.14. If or when the Customer transitions to home or alternative networks, Swift Tech Response LTD will make use of reasonable endeavours to make connections and serviceability. However, home, or alternative networks may not have adequate internet connectivity and equipment to effectively work. Swift Tech Response LTD is not responsible for inadequacies in those home or alternative networks or for securing those connections. Home equipment will not be as secure and may not

have Swift Tech Response LTD software and security features. Swift Tech Response LTD is not responsible for the security of the home or alternative networks. Work on a home or alternative network unless otherwise included is outside the scope of this Agreement and Swift Tech Response LTD may charge its then hourly rate for work on home or alternative networks. Swift Tech Response LTD will charge for additional software installed at home or alternative networks as needed.

### 3. Managed Service Solutions

3.1. The Customer agrees to be bound by the Managed Service Solution Terms, for which Swift Tech Response shall have no liability or responsibility other than to:

3.1.1. assist the Customer in entering the Managed Service Solution Terms, and

3.1.2. where agreed by the parties, Swift Tech Response shall collect from the Customer and on its behalf pay the Managed Service Solution Fees for the use of the Managed Service Solution.

3.2. Swift Tech Response shall have no liability or responsibility for:

3.2.1. The functionality provided by the Managed Service Solution outside of the agreed SLA's within this contract; and 3.2.2 the availability and operation of the Managed Service Solution outside of the agreed SLA's with the end customer.

3.3. The Customer agrees to:

3.3.1. abide by the Managed Service Solution Terms, and

3.3.2. To ensure that all the technical requirements for using the Managed Service Solution have been met and that it has sufficient internet bandwidth and capacity to fully utilise the Managed Service Solution.

3.4. Swift Tech Response is not responsible for the acts of other technicians, contractors or consultants providing service to the Customer not under its control and direction.

3.5. If the Customer purchases equipment through Swift Tech Response, it understands and agrees that Swift Tech Response will look to the manufacturer of such equipment for all remedies and warranties and agrees that Swift Tech Response is not responsible for functioning of the equipment and has not made any express or implied warranties outside of the warranty provided at time of purchase. Swift Tech Response shall not be liable for any claim or demand against the Customer by any third party on account of errors or omissions performed hereunder.

### 4. Acceptance Tests

4.1. When Swift Tech Response LTD considers that the Managed Services and/or Managed Service Solution are ready for activation it shall so notify the Customer. Within five Business Days of such notification, the Customer shall review the operation of the Managed Services to confirm that they function in material conformance with the Managed Services specification set out in the Schedules ("Acceptance Tests"). If the Managed Services and/or Managed Service Solution fail in any material respect to conform with the Managed Services Specification, the Customer shall give Swift Tech Response LTD a detailed description of any

such non-conformance ("Error") in writing, within such five Business Day review period.

- 4.2. Swift Tech Response LTD shall use reasonable endeavours to correct any Error within a reasonable time and, on completion, notify the Customer that the Managed Services and/or Managed Service Solution are ready for activation. where this does not result from any failure on the part of Swift Tech Response LTD to provide the Managed Services then:
    - 4.2.1. where this is caused by a fault in the Managed Service Solution Swift Tech Response LTD shall report the same to the Managed Service Provider and shall provide reasonable assistance to the Customer in implementing a fix or resolution supplied by the Managed Service Provider,
    - 4.2.2. Where this is caused by an issue with a third party or a customer related issue then the Customer may request
    - 4.2.3. Swift Tech Response LTD' s assistance in resolving the same with the cost thereof to be agreed by the parties,
    - 4.2.4. where this is due to a failure on the part of Swift Tech Response LTD then Swift Tech Response LTD shall use all reasonable endeavours to fix or resolve that failure promptly.
  - 4.3. Where the Acceptance Tests fail as a result of a fault or error in the Customer's systems, any software for which Swift Tech Response LTD has no responsibility, any interfaces to third-party systems or services or the Managed Service Solution then the Acceptance Tests shall be deemed to have been completed nonetheless and Swift Tech Response LTD shall endeavour to implement any fixes or workarounds for the same as and when they become available and to re-run the Acceptance Tests at the Customer's cost.
  - 4.4. The Managed Service Solution shall only be used in a live environment once the Acceptance Tests have been successfully completed. If the Customer uses the Managed Service Solution in a live environment without conducting and signing off the Acceptance Tests or doing so when there are identified issues, then the Managed Services shall be deemed to be accepted.
  - 4.5. Swift Tech Response LTD shall not be liable for any loss or damage caused by the Customer using the Managed Service Solution which has either not successfully passed any required Acceptance Tests or where the Customer has not completed and passed the required Acceptance Tests.
5. Customers Obligations
- 5.1. The Customer shall:
    - 5.1.1. Provide Swift Tech Response LTD with all necessary assistance, cooperation, and access to such information, systems, and networks as may be required by Swift Tech Response LTD in order to render the Managed Services and implement the Managed Service Solution.
    - 5.1.2. Provide such assistance, as may be reasonably requested by Swift Tech Response LTD from time to time, for Swift Tech Response LTD to perform the Managed Services and implement the Managed Service Solution.

- 5.1.3. comply with the Customer requirements set out in Schedule 1 Part 3; and
- 5.1.4. Carry out all Customer responsibilities set out in this Agreement in a timely and efficient manner.
- 5.2. The Customer shall use all reasonable endeavours to provide all pertinent information to Swift Tech Response LTD that are necessary for Swift Tech Response LTD's provision of the Managed Services and Managed Service Solution.
- 5.3. If Swift Tech Response LTD requires the decision, approval, consent, or any other communication from the Customer to continue with the provision of the Managed Services or any part thereof at any time, the Customer shall provide the same in a reasonable and timely manner.
- 5.4. If any consents, licenses, or other permissions are needed from any third parties or similar, it shall be the Customer's responsibility to obtain the same in advance of the provision of the Managed Services and implementation of the Managed Service Solution (or the relevant part thereof).
- 5.5. If the nature of the Managed Services requires that Swift Tech Response LTD has access to the Customer's location, access to which is lawfully controlled by the Customer, the Customer shall ensure that Swift Tech Response LTD has access to the same at the times to be agreed between Swift Tech Response LTD and the Customer as required.
- 5.6. Any delay in the provision of the Managed Services resulting from the Customer's failure or delay in complying with any of the provisions of Clause 5 of the Agreement shall not be the responsibility or fault of Swift Tech Response LTD.
- 5.7. The Customer shall not store, distribute, or transmit through the Managed Services and/or Managed Service Solution any material that:
  - 5.7.1. is unlawful, harmful, threatening, defamatory, obscene, harassing, or racially or ethnically offensive.
  - 5.7.2. facilitates illegal activity.
  - 5.7.3. depicts sexually explicit images; and/or
  - 5.7.4. promotes unlawful violence, discrimination based on race, gender, age, disability, sexual orientation, religion, belief or gender reassignment, or any other illegal activity.
- 5.8. The Customer shall remain responsible for the use of the Managed Services under its control, including any use by third parties (whether fraudulent or invited by the Customer).
- 5.9. The Customer shall not provide the Managed Services and/or Managed Service Solution directly or indirectly to third parties.
- 5.10. The Customer shall not modify, create any derivative work of, or incorporate any other software into the computer software programs or any portion thereof with the exception of allowing automatic updates to commence or confirming the installation of an automatically scheduled update or fully supported software for which the Customer has purchased technical support and has scheduled such installation with Swift Tech Response LTD. Programs must be installed by a Swift Tech Response LTD technician or software technical support with a Swift Tech

Response LTD technician assisting. Swift Tech Response LTD shall not be responsible for maintenance of or for repair of errors or malfunctions occasioned by any installation, modification or enhancement to the Managed Service Solutions made by the Customer or by anyone other than Swift Tech Response LTD unless Swift Tech Response LTD has agreed. Corrections of unauthorized modifications shall be at the rate of £850 per day and may be grounds for immediate termination by Swift Tech Response LTD of this Managed Services Agreement. The Customer agrees to prohibit others, including its principals, officers, and employees from installing hardware, working on the technical aspects of the operating systems on the Servers and PC's or to give anyone Domain Administrator access. Only Swift Tech Response LTD will make administrative or technical changes to the servers

## 6. Charges and payment

6.1. Swift Tech Response LTD shall invoice the Customer for the Implementation Fees and the Managed Service Solution Fees in accordance with Schedule 2.

6.2. If Swift Tech Response LTD has not received payment of any undisputed invoice within fourteen days after the due date, and without prejudice to any other rights and remedies of Swift Tech Response LTD.

6.2.1. shall be under no obligation to provide any or all the Managed Services while the invoice(s) concerned remain unpaid; and

6.2.2. charge interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

6.3. Swift Tech Response LTD may, after the Initial Subscription Term, increase the Managed Service Solution Fees.

6.4. Swift Tech Response LTD may increase the Managed Service Solution Fees, during or after the Initial Subscription Term, where a Managed Service Provider changes its fees, and the Customer shall pay the revised fees.

6.5. Where Managed Services are charged for on a monthly recurring basis then the full charges for that month will become due irrespective of when in that month the provision of the Managed Services commences or terminates. 6.6 If the Customer fails to pay, when due, any sum payable or fails to observe any of its material obligations under this Agreement, it shall be deemed to be a material breach of this Agreement. In such cases Swift Tech Response LTD may (without limiting any other right or remedy) suspend or otherwise withhold performance of all Managed Services to the Customer and will resume work immediately once the relevant outstanding payment is received in full into Swift Tech Response account.

## 7. Customer data and data protection

7.1. The Customer shall own all rights, title and interest in and to all of the Customer Data and the Customer shall have sole responsibility for the legality, reliability, integrity, usefulness, accuracy and quality of the Customer Data.

7.2. Where Swift Tech Response LTD processes any Personal Data on the Customer's behalf under this Agreement (but excluding any Personal Data held within the Managed Service Solution for which it bears no responsibility) then it shall do so as

a data processor and the Customer shall be the data controller (as defined by relevant Data Protection Legislation). The Customer shall ensure that Swift Tech Response LTD is entitled to process any personal data under this Agreement on the Customer's behalf.

- 7.3. In respect of Personal Data processed by Swift Tech Response LTD on the Customer's behalf and/or which is accessed by Swift Tech Response LTD in the provision of the Managed Services, Swift Tech Response LTD :
  - 7.3.1. only carry out processing of such Personal Data to the extent reasonably necessary for the performance of this Agreement by Swift Tech Response LTD;
  - 7.3.2. comply with the Customer's instructions in relation to the processing of Personal Data as such instructions are given and varied from time to time by the Customer;
  - 7.3.3. take appropriate technical and organisational measures in its own computer systems against unauthorised or unlawful processing of the Personal Data or its accidental loss, destruction or damage;
  - 7.3.4. not transfer Personal Data to any country outside the United Kingdom and/or European Economic Area without the Customer's prior written consent;
  - 7.3.5. comply with the Data Protection Legislation;
  - 7.3.6. shall ensure that access to the Customer Data is limited to those of Swift Tech Response LTD's employees, sub-contractors, and contract personnel who need access to the Customer Data to assist Swift Tech Response LTD in the performance of the Managed Services and that each of Swift Tech Response LTD ' employees, subcontractors and contract personnel are informed of the confidential nature of the Customer Data and Swift Tech Response LTD procures that such employee complies with the requirements of this Clause 7.
- 7.4. Swift Tech Response LTD shall immediately notify the Customer if any Personal Data is lost or stolen, becomes corrupted or damaged, or if it becomes aware of any unauthorized use thereof.
- 7.5. Swift Tech Response LTD shall immediately notify the Customer if it receives any complaint, notice, or communication which relates directly or indirectly to the processing of Personal Data under this Agreement (including any subject access requests received from any data subject) and shall provide such reasonable cooperation and assistance as the Customer requires at the Customer's cost.
- 7.6. The Customer hereby authorizes Swift Tech Response LTD to appoint third-party sub-processors to carry out the processing of Personal Data in accordance with the provisions of Clause 7.
8. Liability and Insurance
  - 8.1. This Clause 8 sets out the entire financial liability of Swift Tech Response LTD (including any liability for the acts or omissions of its employees, agents, and sub-contractors) to the Customer in respect of:
    - 8.1.1. any breach of this Agreement;
    - 8.1.2. any use made by the Customer of the Managed Services and/or the Managed Service Solution; and

- 8.1.3. any representation, statement, or tortious act or omission (including negligence) arising under or in connection with this Agreement.
  - 8.2. Except as expressly and specifically provided in this Agreement all warranties, representations, conditions, and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement.
  - 8.3. Nothing in this Agreement excludes or limits the liability of Swift Tech Response LTD for:
    - 8.3.1. death or personal injury caused by Swift Tech Response LTD's negligence; or
    - 8.3.2. for fraud or fraudulent misrepresentation.
  - 8.4. Subject to Clauses 8.2 and 8.3 Swift Tech Response LTD shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any:
    - 8.4.1. loss of profits, loss of business, depletion of goodwill and/or similar losses, or pure economic loss,
    - 8.4.2. loss or corruption of data in or by the Managed Service Solution,
    - 8.4.3. the functionality provided by the Managed Service Solution;
    - 8.4.4. the availability and operation of the Managed Service Solution; and
    - 8.4.5. for any special, indirect or consequential loss costs, damages, charges or expenses however arising under this Agreement.
  - 8.5. Swift Tech Response LTD's total aggregate liability in respect of any other liability arising in connection with this Agreement shall be limited to the Managed Service Solution Fees paid by the Customer in the 12 months preceding the claim or series of related claims.
9. Termination
- 9.1. Without prejudice to any other rights or remedies to which a party may be entitled, that party has the right to terminate this Agreement as a whole if the other party breaches any material term of this Agreement or repeatedly breaches any term of this Agreement in such manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give full effect to the terms of the Agreement and that party has not remedied any breach capable of being remedied within 60 days of being written notice to do so.
  - 9.2. Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate this Agreement as a whole if:
    - 9.2.1. an order is made, or a resolution is passed for the winding up of the other party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to such other party;
    - 9.2.2. an order is made for the appointment of an administrator to manage the affairs, business and property of the other party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of such other party, or notice of intention to appoint an administrator is given by such other party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986);

- 9.2.3. a receiver is appointed of any of the other party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of such other party, or if any other person takes possession of or sells such other party's assets;
  - 9.2.4. the other party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
  - 9.2.5. the other party ceases, or threatens to cease, to trade; or
  - 9.2.6. the other party takes or suffers any similar or analogous action to any of the foregoing in any jurisdiction in consequence of debt.
- 9.3. On termination of this Agreement for any reason:
- 9.3.1. the Customer shall be liable to pay the Implementation Fees and/or the applicable Managed Service Solution Fees based on the remainder of fees due for the Subscription Term notwithstanding the fact the Agreement has been terminated early;
  - 9.3.2. The customer shall immediately pay any fees due for products and/or equipment ordered;
  - 9.3.3. the accrued rights of the parties as at termination, or the continuation after termination of any provision expressly stated to survive termination, shall not be affected or prejudiced; and
  - 9.3.4. The customer agrees it will provide access to Swift Tech Response LTD technicians to remove antivirus licenses and monitoring tools. The consequence of and failure to provide this access shall be that the Customer shall continue to be responsible for 50% of the amount of the monthly Managed Services payment until access is allowed and the licenses and tools removed. Spam filtering will be terminated upon default or termination. The Customer understands that it is entirely responsible for redirecting all of the Customer's MX records away from the spam filter system and redirecting email to its server or it must provide Swift Tech Response LTD access to its network information and equipment to take those steps. Upon termination of spam filtering services, email will bounce if the Customer has not taken these steps or requested and allowed Swift Tech Response LTD to take those measures. The Customer understands the above and accepts this responsibility and the consequences if it fails to cooperate or act; the Customer acknowledges that upon the termination of the spam filtering if these steps are not allowed or taken email will not be available and there is no recourse whatsoever to Swift Tech Response LTD.

## 10. Force Majeure

- 10.1. Neither party shall be in breach of this Agreement nor liable for delay in performing any of its obligations under this Agreement if such delay or failure results from events, circumstances, or causes beyond its reasonable control, including failure of a utility service or transport or telecommunications network (save to the extent this ought reasonably to have been guarded against by Swift

Tech Response LTD or its direct sub-contractors), an act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, pandemic, epidemic, quarantine, breakdown of plant or machinery, fire, flood, or storm. In such circumstances, the affected party shall be entitled to a reasonable extension of the time for performing such obligations provided that if the period of delay or non-performance continues for 180 days, the party not affected may terminate this Agreement by giving written notice to the other party.

10.2. Any delay by a party to perform its obligations arising from the occurrence of such an event must be notified to the other party as soon as possible, together with details of the circumstances giving rise to the event.

10.3. If either party is delayed or prevented from performing its obligations under this Agreement by a force majeure event, such party will:

10.3.1. endeavour to continue to perform its obligations for the duration of such event and to mitigate the effect on Swift Tech Response LTD of such delay or prevention on the performance of its obligations under this Agreement (unless terminated under Clause 11.1); and

10.3.2. resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.

## 11. Exit provisions

11.1. Unless specifically agreed in writing, Swift Tech Response LTD shall not be required to provide any assistance to the Customer (save to the extent expressly agreed) upon termination of this Agreement for the transition of any Managed Service Solution either back to the Customer or to a third-party service provider nominated by the Customer ("Exit Assistance").

11.2. Where the Customer requests that Swift Tech Response LTD provides Exit Assistance then Swift Tech Response LTD may elect to do so provided that:

11.2.1. it is not required to provide any Confidential Information including anything relating to its internal processes, methods of configuring and utilising hardware and software, tools and utilities used to manage the services,

11.2.2. its standard costs on a time and materials basis are paid by the Customer on a weekly basis in arrears within 7 days of receipt of a valid invoice in respect thereof.

11.3. Where Exit Assistance is provided under this Clause 12 then this Agreement shall be deemed to be applied to that Exit Assistance for so long as it is being provided.

11.4. Swift Tech Response LTD may upon giving seven days' notice at any time terminate the provision of the Exit Assistance where it is of an ongoing nature.

11.5. The Customer must designate a vendor to handle its email, backups, and any other services provided by Swift Tech Response LTD on the termination of this Agreement. The Customer must establish an account for the transfer of the backups and any other services within 30 days of notice of termination. Swift Tech Response LTD has no responsibility for backups, email or other services beyond 30 days following termination of this Agreement

## 12. Change control

- 12.1. Either party may request any change to a Schedule or any part of the Managed Service Solution at any time in writing.
- 12.2. The party requesting the change shall prepare and submit to the other party details of the changes required (the "Amendment Request"), which shall include without limitation the following:
  - 12.2.1. details of how the Schedule, Managed Service Solution, and/or Managed Services would be amended as a result, including, in particular, any changes to any proposed timetables,
  - 12.2.2. specific details of the additional functionality required or changes to the Schedule, Managed Service Solution, and/or the services together with any examples thereof,
  - 12.2.3. details of any associated or increased costs, and
  - 12.2.4. any other details reasonably required by the other party.
- 12.3. If Swift Tech Response LTD is unable to achieve the Amendment Request, then it will provide the Customer with details of its objections and shall indicate how those objections can be overcome. The Customer may then modify the Amendment Request and re-submit it for consideration by Swift Tech Response LTD.
- 12.4. 12.4 If the parties are unable to agree on the Amendment Request, then the parties shall continue to perform their respective obligations under this Agreement as if the Amendment Request had not been made.
- 12.5. 12.5 The Amendment Request shall be deemed to be part of the Agreement once it has been accepted and confirmed in writing by both parties.

## 13. General

- 13.1. Swift Tech Response LTD and the Customer both agree that they will not solicit for hire and will not hire or otherwise engage any of each other's employees or contractors, either directly or indirectly during any period Managed Services are provided under this Agreement or in the 24 months immediately following termination of this Agreement.
- 13.2. A waiver of any right under this Agreement is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given. No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorized representatives).
- 13.3. Unless specifically provided otherwise, rights arising under this Agreement are cumulative and do not exclude rights provided by law.
- 13.4. This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersedes any previous arrangement, understanding, or agreement between them relating to the subject matter they cover.
- 13.5. Each of the parties acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement,

representation, warranty, or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in this Agreement.

- 13.6. The Customer shall not, without the prior written consent of Swift Tech Response LTD, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement. Swift Tech Response LTD may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement. Swift Tech Response LTD shall remain responsible for the acts and omissions of its sub-contractors and contract personnel as if they were its own. An obligation on Swift Tech Response LTD to do, or to refrain from doing, any act or thing shall include an obligation on Swift Tech Response LTD to procure that its sub-contractors and contract personnel also do, or refrain from doing such act or thing.
- 13.7. Swift Tech Response LTD may, at its sole discretion, transfer or reassign its rights or obligations under this Agreement without prior written consent of the Customer, provided that the assignee has the appropriate capabilities to fulfil the obligations herein.
- 13.8. Any reassignment or transfer without prior written consent of Swift Tech Response LTD shall be deemed null and void.
- 13.9. This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 13.10. Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Agreement, or such other address as may have been notified by that party for such purposes. A notice delivered by hand shall be deemed to have been received when delivered. A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of the post.
- 13.11. This Agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England. The parties submit to the non-exclusive jurisdiction of the English courts.

**Signed** as an agreement on the date specified above.

## **Schedule 1 – Managed Services**

### **Part 1 – Managed Services**

Swift Tech Response LTD will provide the following managed services:

- Unlimited On-site and Remote Support;
- PC Monitoring, Maintenance, Patching;
- and Monthly Reporting

### **Unlimited On-Site and Remote Support**

Swift Tech Response LTD will provide maintenance and support for the existing hardware and software including all equipment listed in Part 3 of Schedule 1.

The Managed Services will include support and troubleshooting for remote access solutions including VPN access, remote desktop, and webmail including remote access setup of off-site computers. Swift Tech Response LTD will make the best effort to resolve as many issues as possible remotely and will come On-Site in the event remote resolution is not possible. Remote support of other staff home computers is included for VPN access to the network provided home computers have current Windows or Apple operating systems and antivirus and are updated regularly. Projects outside the scope of the above to maintain the existing network are billed separately including but not limited to setting up 2nd or additional offices or system changes expanding beyond what is currently in use in the network are beyond the scope of this Agreement. Charges will be billed separately at Swift Tech Response LTD 's then hourly rate for service.

### **Unlimited IT Support**

Through the use of the Swift Tech Response LTD Managed Services Remote, Monitoring, and Management (RMM) software, unlimited support by these systems will be provided. This includes the installation of critical updates for

Windows Operating Systems, Apple Operating Systems, and Microsoft 365. Automated support includes remediation for installed malware, failed services, drive clean-up (temp and unnecessary files), drive optimization, virus, malware, and spyware scans, defrags as well as hardware and software auditing. Swift Tech Response LTD remote monitoring and management software will monitor all PCs that are powered on 24/7 for critical errors. Critical errors will automatically create a Service Ticket in Swift Tech Response LTD 's ticket management system to be addressed by a technician or Swift Tech Response LTD's automation Server which provides automatic response to resolve critical issues. Errors that occur during the maintenance window such as viruses found or unavailable machines will trigger a Service Ticket to be automatically created in Swift Tech Response LTD's ticket management system.

All time billed by Swift Tech Response LTD Automated Support software will be covered under the terms of this Agreement.

## **Part 2 – Managed Service Solutions**

### **Cloud File Sync & Share**

File server replacement/enablement software and service provided to augment or replace existing methods of file sharing for both on-site and when remote as an alternative to VPN.

### **Endpoint Protection / Antivirus**

All antivirus licensing is included for Servers, MAC's and PC's. Antivirus software is business-grade antivirus (Webroot). Swift Tech Response LTD monitors the antivirus software 24/7 and in the event of a virus/worm/adware/spyware being detected a ticket will automatically be created in Swift Tech Response LTD Managed Cloud Services ticket management system. Swift Tech Response LTD will address viruses as requiring an emergency response by a technician to confirm virus removal.

### **Security Threat Detection and Remediation**

Swift Tech Response LTD provides managed threat detection and remediation services to uncover and address malicious network penetration attempts.

### **Cloud Backup**

Automatically backs up all current files, email, and databases stored on the Servers to a secure online location (Maximum 1000GB). Additional gigabytes may be purchased for £\_3\_per user block to be added to the monthly billing. Backups will be performed each night after 11 pm. This includes AES-256-bit DOD Level Encryption of all data. The client must have a 5-megabyte or higher Internet connection (both upload and download).

### **Online Cloud Backup Monthly Reporting**

Automatically backs up all files, email, and databases stored on the Servers to a secure online location.

Swift Tech Response LTD will provide Customers with monthly reporting detailing resolved tickets, patching, antivirus performance, service availability, and network reliability.

### **Swift Tech Response LTD Account Management**

Swift Tech Response LTD provides quarterly meetings with Customers to review ongoing issues, go over upcoming project work, discuss changes in vendors, advise on best practices, create budgets and plan the technology roadmap for the next period.

### **Part 3 - Customer Managed Services Requirements**

1. PC's, Servers, and network equipment including routers, switches, backup devices, and media must be less than 3 years old or turning 3 years old in the first 11 months of the agreement. Servers must be replaced by Customers upon reaching the age of 3 years. Replacement installation costs are billed outside the monthly service amount at Swift Tech Response LTD then the hourly rate. Servers must be covered by an active hardware warranty. Swift Tech Response LTD will coordinate warranty diagnostics, repairs, and return to service.

2. PCs (laptops/desktops/Macs) in excess of 3 years in age that fail will need to be replaced by the Customer with a new machine or one that is less than 3 years in age. Work to restore or replace equipment older than 3 years will be billed as an additional charge.
3. All Servers, Desktop PCs, and Notebooks/Laptops with Microsoft Windows or Apple operating systems must be running an operating system supported by Microsoft or Apple with support expected to continue for 12 months or more with the latest service packs and critical updates installed. As Microsoft or Apple stops supporting an operating system Customer must update their operating system or remove it from any access to the network.
4. Customers will maintain service/support contracts for hardware such as routers, firewalls switches, and specialty software applications.
5. If the Customer has software particular to its business that is installed on its network, the Customer is responsible for obtaining installation, training, and continuing technical support from the software provider. Swift Tech Response LTD technicians can assist with network support but they are not experts in all software applications and rely on the software manufacturer to provide software support at Customer expense.
6. This Agreement covers users and their associated computers and other devices as detailed in the appendix. Customers shall provide a desktop and laptop that are less than 5 years old and in good functioning condition to serve as a hot spare. A hot spare will not be counted as an operating computer for purposes of this Agreement.
7. All server and desktop software must be genuine, licensed, and vendor-supported.
8. The network must have a currently licensed, vendor-supported server-based backup solution that can be monitored and send notifications on job failures and successes.
9. The network must have a currently licensed, vendor-supported hardware firewall between the internal network and the Internet.
10. All wireless data traffic in the environment must be securely encrypted.
11. There must be an outside static IP address assigned to a network device, allowing VPN access.

At the time of initiating service for Customer, Swift Tech Response LTD will evaluate the Customer network and determine whether all Managed Services Requirements are in place and if not in place will install the required services. Charges for bringing the network into compliance with the requirements will be billed as incurred as additional.

**Network information is to be filled in by the customer and confirmed by Swift Tech Response LTD technician**

Location Addresses:

Number of full-time users on site:

Number of full-time remote users:

Number of part-time users on site:

Number of part-time remote users:

Number of email accounts:

Network Equipment supported:

Equipment	Number
Desktops	
Laptops	
Servers*	
MAC Desktops	
MAC Laptops	
iPhones	
iPads	
Android Phones	
Android Tablets	
Network Printers	
Standalone Printers	

\*Identify role of servers

- 1)
- 2)
- 3)
- 4)

\*\*\* Only hardware owned by the customer is to be track on this page.

## Schedule 2 - Fees Part 1 - Implementation fees and initial subscription term

- The implementation fees are £[Deal Implementation Fee (deal custom)]
- The initial subscription term is [Deal Subscription Term (deal custom)] months beginning [Short today's date (datetime today\_short)]
- CUSTOMER have the option to cancel this agreement on or before 31.10.2024 known as the break clause should they wish to review their options. Failure to cancel the agreement in line with the below terms Swift Tech Response will take this as acceptance that the contract is to be fulfilled for the 60-month duration.
- This Agreement will automatically renew for successive 12-month terms unless at least 30 days prior to the expiration of each such Subscription Term, either party notifies the other party in writing of non-renewal.
- Swift Tech Response LT or Customer may terminate this Agreement at any time, after the Initial Subscription Term with at least 90 days' prior written notice to the other.

- Parking expenses will be billed for on-site visits; Swift Tech Response LTD will charge site visits where applicable for works carried out on hardware and or systems not provided or covered in this support agreement.
- Customers will execute the ACH form attached to this Agreement and authorise the monthly drafting of their account for the monthly Managed Service.
- This Agreement covers only the Customer's locations as referenced in this Schedule and its IT assets, services, service hours, and covered days defined within this Agreement.
- The addition of locations, IT assets, services, service hours, and covered days not set out in this Agreement will require billing as additional services or a project or result in an adjustment to the Customer's monthly charges. For example, Customers moving to a new location or adding additional users requiring additional routers and networks are Projects. All services requested by Customers which are not included in the coverages set out in this Agreement are to be billed as "Additional Services" or a "Project" and will be quoted and billed as Separate Charges at Swift Tech Response LTD then hourly rate plus expenses. Expenses may include but are not limited to travel, parking, and tolls
- The cost of any equipment necessary to perform the additional services or project will be paid by the Customer before installation. The estimated charges for projects and additional services will be paid in full prior to the commencement of the Project. Customer agrees to make payment in full within 30 days of billing for additional services not anticipated in the initial estimated charges plus expenses.
- Swift Tech Response LTD will begin and maintain network documentation: on-going documentation of hardware, software, network settings, IP addresses, firewall settings and related network information.
- Swift Tech Response LTD will make available to Customer discounted pricing on servers, laptops, desktops and network equipment.
- If the Customer work is substantially changed due to a Force Majeure, Swift Tech Response LTD will evaluate the need for change to IT services to the Customer and related change of managed service fees. Recognising there are ongoing expenses to Swift Tech Response LTD of maintaining backups, remote monitoring, other vendor support software/licensing and availability of technicians to service on going needs, Swift Tech Response LTD will review with the Customer the need for change of fees if any. Late fees will not be charged under an agreed scenario below:
- Change in number of users at an amount of £30 per user. If reduction is on a per user, as staff returns to work the per user fee will be added back to the monthly fee and prorated as of the date of return if mid-month
- A flat fee charge per month. If the change is a flat fee per month, then billing will resume upon the Customer resumption of services as mutually agreed between Swift Tech Response LTD and the Customer. This may be an evaluation between the parties of a gradual resumption of workers and network activity or an immediate resumption of workers and network activity.

## **Part 2 – Managed Service Solution Fees**

- The customer will pay for the Managed Services monthly on or before the last working day of each month for the amount of £30 per user based on [Deal Number of Users (deal custom)] users. Swift Tech Response LTD will invoice the Customer 30 days in advance of payment. Customer is required to set up a direct debit for monthly payments. If the Customer would like to increase the number of users, then additional fees will be payable.

### Part 3 - Monthly recurring fees

#### Schedule 4 - Managed Service Provider Terms

The use of the Swift Tech Response LTD by the Customer is subject to Managed Service Provider Terms which the Customer agrees to abide by which can be located at:

**Microsoft** <https://learn.microsoft.com/en-us/office/developer-program/terms-and-conditions>

<https://azure.microsoft.com/en-gb/support/legal/>

**3CX** <https://www.3cx.com/company/terms-and-conditions/>

**BT** <https://business.bt.com/terms/>

**HP** <https://www.hp.com/us-en/terms-of-sale.html>

**DELL** <https://www.dell.com/learn/uk/en/ukcorp1/terms-of-sale>

**Avanan** <https://www.avanan.com/avanan-terms-of-service>

**Checkpoint** [Terms of Service – Cloud Services; Infinity Portal - Check Point Software](#)

#### Schedule 5 - Service Level Agreement

Trouble	Priority	Response Time 8am-5:00pm Weekdays	Response Time 5:30-9am Weekdays/Holidays
Service not available (all users and functions unavailable. Ex: Server down).*	1	Remote within 30 minutes	Remote within 2 hours  On-site within 4 hours

Significant degradation of service (large number of users or business critical functions affected).*	<b>2</b>	Remote within 30 minutes	Remote within 2 hours  On-Site within 4 hours
Limited degradation of service (limited number of users or functions affected, business process can continue).**	<b>3</b>	Remote within 30 minutes	Remote within 12 hours  On-Site within 48 hours
Small service degradation (business process can continue, one user affected).**	<b>4</b>	Remote within 30 minutes	Remote within 24 hours  On-site within 72 hours

\*For same day services on priority 3 and 4 tickets must be entered before 4pm.

\*\*Customers may request a specific technician, however, Swift Tech Response LTD will at its discretion assign a technician to address a service ticket or project work.

\*\*\* Swift Tech Response LTD reserves the right to allow Swift Tech Response LTD NOC (Network Operations Centre) to address all tickets initially. If the NOC cannot resolve a ticket, it will be escalated to a Managed Services Tier 3 or Tier 4 technician. If a ticket is escalated to Swift Tech Response LTD from the NOC, Swift Tech Response LTD may, in its sole discretion, determine that an onsite visit is necessary.

\*\*\*\*Weekend support requiring on-site will incur an additional charge at the rate of £850 per day.

Customer agrees that weather, traffic conditions or Force Majeure outside the control of Swift Tech Response LTD may extend or prevent remote or onsite response.

Manager Signature	Customer Signature
Date:	Date:

