

# SPECIAL TERMS – RESELLER SERVICES, SOFTWARE AND LICENSING

These Special Terms – Reseller Services, Software and Licensing apply to the MSA between the Customer and the Company where Reseller Services, Software and Licensing are purchased. These Special Terms – Reseller Services, Software and Licensing apply in addition to the terms of the MSA in relation to the Reseller Services, Software and Licensing only.

## I. Definitions

I.1 All terms in capitals used herein shall have the meaning given to them below unless defined otherwise in the General Terms and Conditions.

<b>“Documentation”</b>	means the training materials and user manuals relating to the use of a Solution and the descriptions of the functions and features of the Solution and Services provided by the Supplier;
<b>“Effective Date”</b>	means the effective date set out in the Order Form for the commencement of each Solution or Service included in the Reseller Services, Software and Licensing;
<b>“Illegal Content”</b>	means any data or content which is defamatory, or constitutes a breach of the IPRs or legal rights of any third party;
<b>“Initial Term”</b>	means the initial term set out in each Order Form for each Solution or Service included in the Reseller Services, Software and Licensing;
<b>“Renewal Term”</b>	means any renewal term set out in an Order Form for each Solution or Services included in the Reseller Services, Software and Licensing;
<b>“Reseller Services, Software and Licensing”</b>	means the Reseller Services, Software and Licensing included in an Order Form
<b>“Services”</b>	means the hosting, maintenance and support services of the Supplier set out in each SLA for each Solution;
<b>“SLA”</b>	means the service level agreement of the Supplier for each Solution as set out in Schedule I.
<b>“Solutions”</b>	means the software applications named in the Order Form under Reseller Services, Software and Licensing;
<b>“Supplier Terms”</b>	means the end user terms of each Supplier applicable to use of each Solution, included in an Order Form as part of the Reseller Services, Software and Licensing, purchased by the Customer from the Company and listed in Schedule I of these Special Terms – Reseller Services, Software and Licensing;
<b>“Supplier”</b>	means the Supplier of each Solution as set out in Schedule I of these Special Terms - Reseller Services, Software and Licensing;
<b>“Term”</b>	means the term set out in each Order Form for the provision of each Solution or Service included in the Reseller Services, Software and Licensing;

## 2 Services and Solution

- 2.1 The Customer engages the Company and the Company agrees to provide access to the Solutions, Services and Documentation to the Customer in accordance with these Special Terms - Reseller Services, Software and Licensing and the terms of the MSA.
- 2.2 The Company shall use all reasonable endeavours to meet any provisioning dates for providing the Solutions and Services, but any dates shall be estimates only and time shall not be of the essence for the provision of the Solution and Services.

2.3 The Company and its licensors shall have the right to make any changes to the Solutions and Services which are necessary to comply with any applicable law, regulation or safety requirement, or which do not materially affect the nature or quality of the Solution and the Services.

2.4 The Solutions and Services will be provided in accordance with the SLAs.

### **3 Licence to use the Solution and Services**

3.1 Subject to the payment of the Fees, the Customer is granted a non-exclusive, non-transferable, revocable, worldwide licence to permit the Customer and Authorised Users to use the Solutions Services (including any associated IPR and Confidential Information of the Company) for the Term for their business operations. Such licence permits the Customer to make cache copies of software or other information necessary for the Customer to receive the Solutions and Services via the Internet. Where open source or third party software is used as part of the Solutions or Services, such software use by the Customer will be subject to the terms of the open source or third party licences. No additional implied rights are granted beyond those specifically mentioned in this clause 3.1.

3.2 Notwithstanding the Customer's statutory rights, no right to modify, adapt, or translate the Solution or Services or create derivative works from the Solutions or Services is granted to the Customer.

3.3 Nothing in the MSA or these Special Terms - Reseller Services, Software and Licensing shall be construed to mean, by inference or otherwise, that the Customer has any right to obtain source code for the software comprised within the Solutions or Services. Disassembly, decompilation or reverse engineering and other source code derivation of the software comprised within the Solutions or Services is prohibited as far as this is prohibited by applicable law.

3.4 Unless otherwise specified in the MSA, the Solutions and Services are provided and may only be used in conjunction with:

3.4.1 Existing systems and applications in order to facilitate communications between Authorised Users and emergency services;

3.4.2 Providing access to the Solutions and Services solely to Authorised Users; and

3.4.3 Accessing and using the Documentation as necessary to enable use of the Solutions and Services.

3.5 The Customer may not:

3.5.1 Lease, loan, resell, assign, licence, distribute or otherwise permit access to the Solutions and Services; or

3.5.2 Use the Solutions or Services to provide ancillary services related to the Solutions or Services; or

3.5.3 Permit access to or use of the Solutions or Services by or on behalf of any third party;

except as permitted in the MSA.

3.6 The Company reserves the right to electronically monitor the use of the Solutions and Services.

3.7 All Authorised Users must comply with the provisions of the applicable Supplier Terms for each Solution and the Customer shall be liable for any breach of the Supplier Terms by any Authorised User.

### **4 Term and Termination**

4.1 The licence to access and use each Solution and Service shall commence on the Effective Date set out in an Order Form for each Solution and Services included in the Reseller Services, Software and Licensing and shall continue for the duration of each respective Initial Term set out in the Order Form for the Reseller Services, Software and Licensing. On expiry of the respective Initial Term, each licence shall automatically renew for successive Renewal Terms as set out in the Order Form and continue until either party terminates the licences by giving the other at least 60 days notice prior to the start of a renewal term.

4.2 In addition to any other right of termination, the Company may terminate the licence to use or access the Solutions and Services or the provision of any Services with immediate effect if:

4.2.1 The Customer has used or permitted use of the Solution and Services other than in accordance with these Special Terms – Reseller Services, Software and Licensing or Supplier Terms; or

4.2.2 The Company is prohibited under applicable law, or otherwise from providing the Solution or Services.

4.3 Upon termination of the MSA, the Company shall:

4.3.1 Cease providing the Solution and Services to the Customer;

- 4.3.2 At the option of the Customer, following receipt of a request from the Customer delete (in accordance with the terms of the DPA) or return all Customer Data stored in the Company's database in its then current format, free of charge, provided that such request is made within 30 days of termination. If the Customer requires any Customer Data to be returned in a different format the Company reserves the right to charge for this additional service on a Time and Materials Basis.

## 5 Fees, Invoicing and Payment

- 5.1 The Company shall invoice the Customer the Fees set out in the Order Form for the provision of the Solution and Services.
- 5.2 All Fees shall be invoiced as set out in the Order Form.
- 5.3 Travel Fees, incidental costs and other expenses shall be invoiced in addition to the Fees in arrears, as and when they arise.
- 5.4 The Customer shall pay the Company the Fees as set out in each Order Form.

## 6 Representations and Warranties

- 6.1 The Customer warrants and represents that:
- 6.1.1 The Customer and Authorised Users shall maintain reasonable security measures (as may change over time) covering, without limitation, confidentiality, authenticity and integrity to ensure that the access to the Solution and Services granted under the MSA is limited as set out under the MSA. In particular the Customer and Authorised Users shall treat any identification, password or username or other security device for use of the Solution and Services with due diligence and care and take all necessary steps to ensure that they are kept confidential, secure and are used properly and are not disclosed to unauthorised persons. Any breach of the above shall be immediately notified to the Company in writing. The Customer shall be liable for any breach of the MSA by an Authorised User;
- 6.1.2 The Customer shall ensure that their networks and systems comply with the relevant specifications provided by the Company from time to time and that they are solely responsible for procuring and maintaining their network connections and telecommunications links from their systems to the Company's data centres and all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Customer's network connections or telecommunications links or caused by the Internet.

## 7 Liability

- 7.1 The Customer shall be liable for any breaches of these Special Terms – Reseller Services, Software and Licensing caused by the acts, omissions or negligence of any Authorised User who accesses the Services and Solutions as if such acts, omissions or negligence had been committed by the Customer itself.

## 8 Customer Indemnity

- 8.1 The Customer shall defend, indemnify and hold harmless the Company, its licensor, and their employees, sub-contractors or agents from and against any claims, actions, proceedings, losses, damages, fines, expenses and costs (including without limitation court costs and reasonable legal fees) resulting directly or indirectly from:
- 8.1.1 Any claimed infringement or breach by a Customer or Authorised User of any third party IPRs with respect to use of the Solutions or Services outside of the scope of the Special Terms – Reseller Services, Software and Licensing or applicable Supplier Terms; or
- 8.1.2 Use by the Company of any Customer Data or a Customer or Authorised User provided item, in particular storage or publication on the Internet of any Illegal Content; or
- 8.1.3 Any access to or use of the Solutions or Services by an Authorised User or a third party; or
- 8.1.4 Any breach of the terms of these Special Terms – Reseller Services, Software and Licensing or applicable Supplier Terms by an Authorised User;

and the Company shall be entitled to take reasonable measures in order to prevent Illegal Content from being published on the Internet or breaches of third party rights from continuing.

- 8.2 Subject to clauses 8.1 to 8.5 inclusive, each party ("**the first party**") indemnifies and undertakes to keep indemnified the other party, its officers, servants and agents ("**the second party**") against any costs or expenses (including the cost of any settlement) arising out of any claim, action, proceedings or demand that may be brought, made or prosecuted against the second party under any indemnity contained in clause 8. Such indemnity extends to and includes all costs, damages and

expenses (including legal fees and expenses) reasonably incurred by the second party in defending any such action, proceeding claim or demands.

## **9 Security**

- 9.1 The Company shall permit the Customer to specify which Authorised Users may access the Services and Solutions through its standard application security options.
- 9.2 The Customer and Authorised Users must ensure that each password is only used by the user to which it has been assigned. The Customer is responsible for any and all activities that occur under the Customer's account and via the Customer's passwords. The Customer will immediately notify the Company if the Customer becomes aware of any unauthorised use of its account or passwords or breach of security. The Company shall have no liability for any loss or damage arising from the Customer's failure to comply with these requirements.
- 9.3 The Company may suspend access to the Solutions and Services, or portion thereof, at any time, if in the Company's sole reasonable discretion, the integrity or security of the Services or Solutions is in danger of being compromised by acts of a Customer or Authorised Users.

## **10 Miscellaneous**

- 10.1 In the event of any inconsistency between the content of these Special Terms – Reseller Services, Software and Licensing and the remainder of the terms of the MSA, the terms of the Order Form shall prevail followed by these Special Terms – Reseller Services, Software and Licensing in relation to the Reseller Services, Software and Licensing, then the remainder of the terms of the MSA.

## Schedule I – Supplier Terms

Solution	Supplier	Supplier Terms and SLA
Acronis 365 Backup	Acronis	<a href="https://www.acronis.com/en-us/support/platform-terms-conditions.html">https://www.acronis.com/en-us/support/platform-terms-conditions.html</a>
Anti-Virus Services	ESET	<a href="https://www.eset.com/uk/terms-and-conditions-business/">https://www.eset.com/uk/terms-and-conditions-business/</a>
Anti-Virus Services	Webroot	<a href="https://www.webroot.com/gb/en/legal/service-terms-and-conditions">https://www.webroot.com/gb/en/legal/service-terms-and-conditions</a>
Cloud Signatures	Exclaimer	<a href="https://www.exclaimer.com/company/legal">https://www.exclaimer.com/company/legal</a>
Desktop Hosting Services	Cloud2Me	<a href="https://www.cloud2me.co.uk/terms-conditions-service/">https://www.cloud2me.co.uk/terms-conditions-service/</a>
Domain Names	Layershift	<a href="https://www.layershift.com/legal/">https://www.layershift.com/legal/</a>
Duo MFA Authentication	Duo	<a href="https://duo.com/legal/terms">https://duo.com/legal/terms</a>
E-Mail Security Services	Vade	<a href="https://www.vadesecure.com/en/conditions_use/">https://www.vadesecure.com/en/conditions_use/</a>
Google Suite	Google	<a href="https://gsuite.google.com/terms/2013/1/premier_terms.html">https://gsuite.google.com/terms/2013/1/premier_terms.html</a>
Hosted Servers	OVH	<a href="https://www.ovh.co.uk/support/terms-and-conditions/">https://www.ovh.co.uk/support/terms-and-conditions/</a>
Microsoft Office and Microsoft Azure	Microsoft	<a href="https://www.microsoft.com/en-gb/servicesagreement/">https://www.microsoft.com/en-gb/servicesagreement/</a>
Monitoring Services	NinjaRMM	<a href="https://www.ninjarmm.com/terms-of-use/">https://www.ninjarmm.com/terms-of-use/</a>
Online Backup Services	Ceejay	<a href="https://ceejay.com/gdpr-and-data-security/">https://ceejay.com/gdpr-and-data-security/</a>
PSTN Telephony and Broadband Services	Zen	<a href="https://www.zen.co.uk/standard-terms-conditions">https://www.zen.co.uk/standard-terms-conditions</a>
VOIP Services	Simwood	<a href="https://www.nimvelo.com/terms-of-service/">https://www.nimvelo.com/terms-of-service/</a>
Website Hosting	Layershift	<a href="https://www.layershift.com/legal/">https://www.layershift.com/legal/</a>