

1. Definitions

In this agreement, unless the context otherwise requires, the following expressions have the following meanings:

"We", "Our" or "Us" means Galtec Solutions Ltd;

"The Company" means Galtec Solutions Ltd;

"You" means the person named in the Service Agreement signed by you;

"Company Data" means any of your data normally accessed by your users from their PCs.

"This Agreement" means the Service Agreement signed by you, these Terms and Conditions, the Services Description and the Service Level Agreement as each may be amended from time to time;

"Service Agreement" means the document signed by you setting out the services requested by you, the Service Fees, the Initial Term, the Commencement Date and other terms referred to in these Terms and Conditions;

"Commencement Date" means the date the Services commence;

"Product" means the services selected by you and set out in Service Agreement signed by you;

"Service Fees" means the fees for the provision of the Services described in the Service Agreement signed by you;

"Initial Contract Term" means the minimum contractual period as agreed on the Service Agreement signed by you.

2. Hosted Backups

2.1 We will institute procedures by which so far as reasonably practicable, securely encrypted copies of your company data will be taken automatically at intervals chosen by you, and transmitted to and stored on our servers, so as to enable access thereto by you in case of need.

2.2 Maintaining an up to date backup may require us to base software on your premises. All rights in any such software remain ours, and on termination of this agreement for whatever reason, we shall be entitled to uninstall it.

2.3 It is your responsibility to maintain your own internet connection of adequate capacity to enable backup data to be transmitted to our servers. The data traffic required to maintain an up to date backup will consume bandwidth, and may have a detectable negative effect on the overall performance of your internet connectivity. We can advise you on how to overcome this issue, should it become a problem for you.

2.4 It is your responsibility to maintain a hardware and software environment suitable for operating the online backup agent that performs your backups.

2.5 Your data will be retained for seven days. It is your responsibility to request for this to be changed if a longer retention period is required. An increase in the retention period will require an additional data reservation which will be chargeable at our current standard rate.

2.6 You are responsible for ensuring that all data that you require to be backed up is included within the backup selection list. We are not responsible in any way for ensuring that your selections are correct.

2.7 We will check your backups at regular intervals and notify the registered user(s) of any failures by email within 4 business hours. If you become aware of a failure you should notify us by sending an email to support@galtec.com within 4 business hours. Alternatively the support desk can be contacted by telephone on 08444 770 520.

2.8 Hosted backups are performed periodically and are not continuous. Copying files to backup can be delayed for a variety of reasons, e.g. a file may be locked by a user application whilst in use, and so not accessible to our backup software until the data file is closed by the user application; or there may be a third party communications failure, which delays transmission of a backup to our server. Data files actually in use at the moment disaster strikes are particularly vulnerable to this problem. Our obligations are limited to using reasonable efforts to maintain an adequate recent backup, and to providing prompt access to such backup data.

2.9 We are not in any way responsible for any data loss that is due to incorrect or incomplete configuration of the backup software on your systems.

2.10 Online backup is not insurance against data loss, and nor is it a substitute for such insurance. Online backup is a service intended to help you take reasonable precautions to prevent data loss, at reasonable cost, and to gain access to backed up data so as to enable 'business as usual' as quickly as possible, in case of need.

3. General

3.1 Access to Galtec Managed Services is obtained by user password. It is your responsibility to keep secure any passwords issued to you, and to advise us immediately if you have reason to suspect the security of a password has been compromised. All access using a password allocated to you is conclusively presumed to have been authorised by you.

3.2 So far as is reasonably practicable, backups will continue to be taken and access to services will be available on a 24 hour 7 day basis; it is however technically impossible to provide a fault-free service. We

will use reasonable efforts to ensure that service is maintained at all times, to keep unavoidable interruptions to a minimum, and to give notice of anticipated interruptions, but it is inevitable that there may be times when the service or some aspects of it are not available.

3.3 This Agreement (together with any documents referred to in This Agreement) constitutes the whole agreement between the parties relating to its subject matter and no variations to this Agreement shall be effective unless made in writing and signed by both parties.

3.4 Neither party hereto shall be liable for any breach of its obligations resulting from causes beyond its reasonable control for so long as such situation exists.

3.5 You shall not be entitled to assign or otherwise transfer This Agreement.

3.6 The Contracts (Rights of Third Parties) Act 1999 shall not apply to This Agreement.

3.7 No waiver by either party in respect of a breach shall operate as a waiver in respect of any subsequent breach.

3.8 If any provision of this agreement is wholly or partly invalid or unenforceable, then:

3.8.1 If by applying to it a restrictive interpretation it would not be invalid or unenforceable, that restrictive interpretation shall be applied to it; and,

3.8.2 Subject to clause 3.8.1 the part of the provision which is invalid or unenforceable shall be deleted and shall not affect the validity of the remainder of this agreement.

3.9 We reserve the right to revise and amend our terms and conditions from time to time. If we change our terms and conditions we will place our current terms and conditions on our website at www.galtec.com.

3.10 To guarantee optimal performance on our servers, it is necessary for us to perform routine maintenance on our servers. Such maintenance often requires taking our servers off-line. Galtec will give you notice of maintenance requiring the servers to be taken off-line whenever possible.

4. Who is responsible?

4.1 You are responsible for ensuring that your use of this service is in every respect lawful, and you must indemnify Galtec against any liability, costs, or loss which Galtec may suffer arising from any breach of this obligation.

4.2 You should inform us in writing prior to modifying, updating, upgrading or installing any software or system which may affect our ability to deliver the service to you.

4.3 We accept liability for direct loss and damage resulting from our negligence, or from any failure by us to perform this agreement, except where that results from causes beyond our reasonable control.

4.4 We are not liable for any delays or failures on the part of third party suppliers and providers. We are not liable for any economic, consequential or indirect loss or damage, or for loss of profit, business, revenue, goodwill or anticipated savings.

4.5 We shall not in any event be liable for any claims not notified to us in writing within one month of the cause of action accruing.

4.6 We both acknowledge that (a) neither of us enters this Agreement on the basis of or in reliance on any representation, warranty or other provision except as expressly provided in writing, and (b) any liability or remedy for innocent or negligent misrepresentation is expressly excluded, and (c) save to the extent expressly provided herein, all conditions, warranties or other terms implied by statute or common law are hereby excluded to the fullest extent permitted by law.

5. Service Levels

5.1 The Managed Services Helpdesk is available between 8.30am and 5.30pm Monday to Friday (except for UK bank and public holidays). The Galtec Helpdesk can be contacted via e-mail on support@galtec.com. Our helpdesk will record details of any issue reported to us. We will respond to all reported incidents within 4 hours.

6. Prices and Payment

6.1 Payments for service agreements shall be made annually in advance unless otherwise agreed in writing;

6.2 We shall notify you in writing of any increase to the service charge at least 7 days in advance. If the increase relates to a change in the Services provided, we shall agree with you the amount of the increase prior to the commencement of the new Services;

6.3 You agree to pay the annual service charge from the commencement date and for the duration of the service agreement even if the service is suspended or not used;

6.4 All charges are quoted exclusive of value added tax, which shall be charged at the rate prevailing at the time of invoice;

6.5 It is your responsibility to make payments in accordance with the charging schedule and we reserve the right to suspend services whilst any payment is overdue. We cannot guarantee the retention or integrity of data during any such period of suspension, and there will be a period thereafter during which a complete backup of company data may not be available.

6.6 In the event that we are unable to provide service by the proposed start date as a result of you not providing us with adequate access to sites and or systems we reserve the right to charge you the agreed service fee from the proposed start date.

7. Data Protection and Contact Details

7.1 You and we shall comply with the provisions of the Data Protection Act 1998 and any related legislation insofar as the same relates to the provisions and obligations of this Agreement or data held by us;

8. Our Staff

8.1 Our staff is our most valuable asset. If you or a third party were to engage or try to engage them without our agreement, we would suffer serious loss. You agree that you will not engage or try to engage our staff or introduce them to any third party other than in good faith and without any view to their engagement by a third party.

8.2 You further agree that if you do engage or try to engage (or if a third party does so following introduction by you) any member or former member of our staff who has within the immediately preceding 12 months been engaged in our provision of services for you, you will pay us by way of liquidated damages such sum as represents 150% of the annual gross salary for the individual in question.

9. Warranties

9.1 Subject to your compliance with the terms of This Agreement, we warrant the provision of information provided will be carried out with reasonable care and skill by personnel whose experience will be appropriate for the tasks which are allocated to them

9.2 We do not warrant that the Services will be error free or uninterrupted. Galtec cannot be held responsible for any breaks in service relating to your software, hardware and internet service provision.

9.3 You agree to hold no claim of compensation from Galtec in respect of financial loss due to downtime or interrupted service;

9.4 Subject to the provisions of clause 9.1, all conditions, warranties and terms implied by statute or otherwise in

respect of satisfactory quality, fitness for purpose or an ability to achieve a particular activity are hereby excluded;

9.5 You will be solely responsible for any damage to your computer system or loss of data that results from unauthorised downloading of data;

10. Limitation of Liability

10.1 This clause sets out the limit of our liability to you for breach of our obligations under This Agreement, or any misrepresentation, negligence or other wrongful act on our part called an "Act of Default";

10.2 We shall be liable in full and without limitation for death or injury resulting from our own negligence or that of our employees or agents;

10.3 We shall not be liable for:

10.3.1 Any indirect, consequential or special loss arising from an Act of Default. Consequential loss includes loss of profits, loss of goodwill any type of special, indirect or other consequential loss;

11. Confidentiality

11.1 Each of the parties undertakes to the other to keep confidential and not use for its own purpose or anyone else all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received from the other party save that which is:

11.1.1 Trivial or obvious;

11.1.2 Already in its possession other than as a result of a breach of this clause;

11.1.3 In the public domain other than as a result of a breach of this clause;

11.1.4 For reasonable marketing or reference purposes;

11.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of this clause by its employees, authorised agents and sub-contractors;

11.3 The provisions of this clause shall survive the termination of This Agreement;

12. Term and Termination

12.1 This Agreement will run for an Initial Term beginning on the Commencement Date and ending on the day before the end of the Initial Contract Term. This Agreement will automatically be renewed for additional 12 month periods unless terminated by either party giving not less than 30

day's prior notice in writing before the end of the contract term.

12.2 This Agreement may be terminated:

12.2.1 Forthwith by either party if the other commits any material breach of any term of This Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same;

12.2.2 In the event of a technical emergency when we may immediately terminate or suspend this Agreement in which case we shall provide such notice to you via telephone or e-mail;

12.2.3 If the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

13. Force Majeure

13.1 The Company reserves the right to suspend, vary or cancel the Service Agreement if events occur which are in the nature of force majeure including (without prejudice to the generality of the foregoing) fire, flood, storms, breakdown, strikes, riots, lock outs, hostilities, non-availability of materials or suppliers or any other event outside the control of The Company; and The Company shall not be held liable for any breach of contract resulting from such an event.

14. Consequential Loss

14.1 The Company will not under any circumstances accept responsibility for any consequential losses (including loss of profit, loss of business or pure economic loss) suffered by the customer.

15. Law

15.1 This Agreement shall be governed by and construed in accordance with English law and the parties hereto agree to submit to the non-exclusive jurisdiction of the English courts.