

General Terms & Conditions

Net Support UK Services

Rev 2.1 – June 2016



About Net Support UK

Net Support UK offers cloud solutions with smart advice and support. There's no doubt that we're experts.

We think, act and deliver differently to other IT companies by taking a 'blank paper' approach to every challenge and start by listening to what our customers want to do with their business.

For over 17 years we've kept ourselves savvy with the top tech and avoided the traps of a 'brands only' approach. It's all about the whole team working together and there's nothing more rewarding than seeing great ideas put into practice - and our customers' businesses grow as a result.

Microsoft Partner

Gold Midmarket Solution Provider
Silver Midmarket Solution Provider
Silver Hosting
Silver Datacenter
Silver Small and Midmarket Cloud Solutions



Terms and Conditions

1 Definitions

“**Acceptable Use Policy**” or “**AUP**” means the Net Support UK Ltd Acceptable Use Policy relating to the use of Services as modified from time to time.

“**Affiliate**” means a subsidiary or holding company of either Net Support UK Ltd or the Customer and any subsidiary of such holding company (where "holding company" and "subsidiary" have the meanings set out in section 1159 of the Companies Act 2006).

“**Agreement**” means the Country Specific Terms, Service Specific Terms, these Terms and Conditions, the Service Order, the Service Description, and the Net Support UK Ltd Acceptable Use Policy when taken together, which in the case of conflict rank in the order of precedence listed above.

“**Business Day**” or “**Business Hours**” means 08:00-18:00 Monday Through Friday excluding public holidays in the United Kingdom.

“**Confidential Information**” means all information disclosed by Net Support UK Ltd or the Customer to the other party, whether before or after the effective date of this Agreement, that the recipient should reasonably understand to be confidential, including: (i) for the Customer, all information transmitted to or from, or stored on any Managed System, (ii) for Net Support UK Ltd, unpublished prices and other terms of service, audit and security reports, product development plans, solution diagrams, data centre designs, and other proprietary information or technology, and (iii) for both parties, information that is marked or otherwise conspicuously designated as confidential. Information that is independently developed by either party, without reference to the other's Confidential Information, or that becomes available to either party other than through breach of the Contract or applicable law, shall not be "Confidential Information" of the other party.

“**Country Specific Terms**” means the addendum or addenda that may be incorporated into the Agreement if a portion of your Services are to be provided from a non-United Kingdom jurisdiction for which we have special legal terms.

“**Customer**” means the person, group of persons or other entity whose name and address are set out in the Service Order.

“**Customer Information**” means data, information, video, graphics, sound, music, photographs, software and any other materials (in whatever form) published or otherwise made available (directly or indirectly) by or on behalf of the Customer by using the Services.

“**Equipment**” means equipment detailed on the Service Order or placed on a Customer Site by Net Support UK Ltd for the provision of the Services.

“**Managed System**” means a combination of hardware, software and networking elements that comprise an information technology system. Depending on the Services being purchased, the Managed System may consist of a dedicated system for the Customer use only, or the right to use certain parts of a shared system that Net Support UK Ltd maintains for many customers, or a combination of some dedicated elements and some shared elements.

“**Managed Services**” means Net Support UK Ltd’s provision for your use of the Managed System and related support as described in the Service Description.

“Minimum Service Period” means the minimum period set out in the Service Order beginning on the Operational Service Date.

“Net Support UK Ltd” means Net Support UK Ltd of Riverside Court, Beaufort Park Way, Chepstow, Monmouthshire, NP16 5UH registered in England and Wales no. 3625793.

“Net Support UK Ltd Group Company” means a Net Support UK Ltd subsidiary or holding company, or a subsidiary of that holding company, all as defined by section 1159 of the Companies Act 2006.

“Operational Service Date” means the date when a Service is first made available for use by the customer.

“Service Description” means the written description of the Managed Services specified in the Service Order.

“Service Order” means the form for the supply by Net Support UK Ltd of the Services completed by, or in accordance with an order from, the Customer.

“Service Specific Terms” means the Terms and Conditions for the particular Services as listed in the Service Order and as detailed in the Service Description.

“Services” means the Services as Defined in the Service Order.

“Software” means any software provided by Net Support UK Ltd to enable the Customer to access or use the Services.

“Us” or **“We”** means Net Support UK Ltd and references to ‘our’ should be construed accordingly.

“You” means the Customer and references to ‘your’ should be construed accordingly.

2 Commencement

- 2.1 This Agreement sets out the general terms and conditions of supply upon which Net Support UK Ltd supplies Services to The Customer.
- 2.2 This Agreement shall take effect from the date the Service Order is accepted by Net Support UK Ltd or the date the Customer first uses the Services whichever of these is earlier, and shall continue in force unless and until terminated in accordance with the Agreement.
- 2.3 Net Support UK Ltd's obligation to provide the Services is contingent upon the Customer satisfying a Net Support UK Ltd credit check.

3 The Service Period

- 3.1 Except where specified otherwise in the Service Order or the Service Specific Terms, the Services will be provided for a Minimum Service Period of 12 months from the Operational Service Date.
- 3.2 On expiry of the Minimum Service Period the Services will continue to be provided under terms of this agreement unless otherwise terminated pursuant to this agreement.

4 Our Obligations

- 4.1 Net Support UK Ltd will provide the Services in accordance with the relevant Service Descriptions, Service Level Agreements, Service Level Guarantees and any other specifications in this Agreement.
- 4.2 Net Support UK Ltd will use reasonable endeavours to provide the Services by the date agreed with the Customer, but all dates are estimates and Net Support UK Ltd has no liability for any failure to meet any date, unless the Service Order says otherwise
- 4.3 Net Support UK Ltd aim to provide uninterrupted service but from time to time faults may occur which Net Support UK Ltd will use reasonable efforts to repair in accordance with the Service Description and any applicable Service Level Agreements and Service Level Guarantees.
- 4.4 Net Support UK Ltd will provide all Services in accordance with applicable law.

5 Your Obligations

- 5.1 The Customer must use reasonable security precautions in connection with their use of the Services.
- 5.2 The Customer shall not at any time attempt to circumvent any system security or attempt unauthorised access to any element of the Managed System.
- 5.3 The Customer warrants that the Customer information is, and will remain, accurate and will not include any information or material, any part of which, or the accessing or use of which would be a criminal offence or otherwise unlawful. In particular, the Customer Warrants that all necessary licenses and consents (including but not limited to those from owners of copyrights or performing rights) have been obtained.

- 5.4 The Customer warrants that it will comply with all consumer and other legislation, instructions or guidelines issued by regulatory authorities, relevant licenses and any other codes of practise which apply to the Customer or Net Support UK Ltd provided that Net Support UK Ltd has given notice to the Customer of those which apply to Net Support UK Ltd.
- 5.5 The Services must not be used in a way that does not comply with the terms of any legislation or any license applicable to the Customer or that is in any way unlawful.
- 5.6 The Customer shall comply with any reasonable instructions received from Net Support UK Ltd which Net Support UK Ltd have issued for reasons of health and safety or to protect the quality of the Services provided to the Customer or any other customer.

6 Export Matters

- 6.1 The Customer will not possess, use, import, export or resell (and shall not permit the possession, use, import, export or resale of) the Services or any information or technical data provided by Net Support UK Ltd under this Agreement in any manner which would cause Net Support UK Ltd or its Affiliates to breach any applicable export control laws, rules or regulations of UK law. Without limitation the Customer warrants and undertakes that they will not use the Services for the development, design, manufacture, production, stockpiling or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles; illegal gambling, terrorism, narcotics trafficking or arms trafficking; nor will the Customer provide administrative access to or permit use of the Services by any persons (including any natural person, government or private entity or other form of body corporate) that is located in or is a national of any country that is embargoed or highly restricted under United Kingdom export laws, rules or regulations.

7 Changes to this Agreement

- 7.1 If the Customer asks Net Support UK Ltd to make any changes to the Service, Net Support UK Ltd may ask the Customer to confirm the request in writing. If Net Support UK Ltd agrees to a change, this Agreement will be amended from the date when Net Support UK Ltd confirms the change in writing to the Customer
- 7.2 Net Support UK Ltd may increase the amount payable by you for any Services by giving you one month's calendar notice in writing after the expiry of the Minimum Service Period.
- 7.3 Charges for Services which are subject to a Minimum Service Period of more than three (3) calendar months shall remain unchanged during their applicable Minimum Service Period unless;
 - (a) Net Support UK Ltd can reasonably demonstrate that the cost of providing the Services has increased because of a change by a third party supplier. Any such increase in our charges will not exceed the increased cost incurred by us in providing the Service. We will give 30 calendar days' notice of such change; or
 - (b) the cost of providing the service increases to comply with any legal or regulatory obligation, decision or request. We will give 30 calendar days' notice or such change, save where our compliance with that legal or regulatory obligation requires a shorter period of notice or no notice.

- 7.4 Net Support UK Ltd reserves the right to modify the terms and conditions of this Agreement. Where this happens we will notify you in advance before the changes to the terms and conditions take effect. The reasons we may make changes include, but are not limited to;
- (a) complying with any legal or regulatory obligation, decision or request;
 - (b) changing the conditions relating to a Service in order to reflect contractual changes imposed upon us by our Suppliers;
 - (c) introducing new products, improved Service features, variations that are necessary by virtue of any new law or regulation or as required by any regulator or other competent authority;
 - (d) introducing process changes (including changes to the Acceptable Use Policy), provided that they are not to your detriment;
 - (e) maintaining the integrity or security of the Service or any network;
 - (f) improving clarity, or making corrections to typographical errors;
 - (g) changing the processes and procedures detailed in any Service Description
- 7.5 Net Support UK Ltd will endeavour to notify the customer of any change at least 30 calendar days before it happens, save where our compliance with any legal or regulatory obligation requires a shorter period of notice or no notice.
- 7.6 In respect of changes to this Agreement made under clause 7.4 such changes shall not require a new Agreement to be signed by the Parties and shall take effect at the expiration of such notice as is provided by clause 7.5.
- 7.7 Net Support UK Ltd may from time to time make test or trial services and/or promotional offers (“Offers”) available. Such Offers may be subject to specific terms and conditions (“Promotional Terms and Conditions”). Promotional Terms and Conditions may require a variation to this Agreement in which case the Customer will be deemed to have accepted such variation on their acceptance of the Offer. Unless otherwise stated in the Promotional Terms and Conditions, an Offer may be amended or withdrawn by Net Support UK Ltd at any time and without notice. For the avoidance of doubt Net Support UK Ltd are not obliged to include the Customer in any Offer made to other customers. Unless expressly permitted under the terms of a specific promotional offer, current and former customers, under the same or any other identity, are ineligible for any promotional offer reserved for new customers.

8 Charges

- 8.1 Except where otherwise set out in this Agreement, all charges and other sums due from The Customer in respect of the Services shall be set out in the Service Order and / or the Price List and / or the invoice relating to such Services. Value Added Tax will be added to Net Support UK Ltd’s invoices as appropriate
- 8.2 Charging will begin on the Operational Service Date or as otherwise set out in the Service Order or Service Description.

- 8.3 The Customer will pay the charges (without any set off or deduction of any kind) on either a monthly, quarterly or annual basis as stated in the Service Order and / or the Price List and / or the invoice referred to in Clause 8.1 above. Where payment is not made in accordance with these terms, Net Support UK Ltd may charge daily interest on any unpaid amounts calculated at 7% per annum above the base lending rate of Lloyds Bank plc.

9 Cancellation

- 9.1 The Customer may cancel the Services at any time before the Operational Service Date. If the Customer cancels the Services, the Customer must pay Net Support UK Ltd for any work done or money spent in preparing to provide the Services. Net Support UK Ltd will take reasonable steps to mitigate the amount of such costs.

10 Suspension

- 10.1 Net Support UK Ltd may suspend the Services without liability if:
- (a) we reasonably believe that the Services are being used in breach of this Agreement;
 - (b) the Customer does not cooperate with our reasonable investigation of any suspected violation of this Agreement;
 - (c) there is an attack on the Managed System or the Managed System is accessed or manipulated by a third party without the Customer's consent;
 - (d) payment is not received in accordance with the Agreement;
 - (e) we are required by law or a regulatory or government body to suspend the Services; or
 - (f) there is another event for which we reasonably believe that the suspension of the Services is necessary to protect the Net Support UK Ltd network or our other customers.
- 10.2 Net Support UK Ltd will give advance notice of any suspension under this clause of at least twelve (12) Business Hours unless we determine in our reasonable commercial judgement that a suspension on shorter or contemporaneous notice is necessary to protect Net Support UK Ltd systems or its other customers from imminent and significant operational, legal or security risk.
- 10.3 If the Services are suspended due to a Managed System becoming compromised as a result of Customer owned or controlled systems or through the Customer's use of the Services, the Customer must address the vulnerability prior to Net Support UK Ltd lifting any such suspension. At the Customer's request Net Support UK Ltd may be able to perform this work for the Customer at our standard hourly rates.
- 10.4 During any period of suspension, the Customer agrees to continue to pay and to remain liable for all charges pursuant to the Agreement. Only by giving the standard notice to terminate and payment of any termination fees, can such charges be avoided during suspension.
- 10.5 If Services are suspended due to a Customer breach of the AUP, non-receipt of payment or due to Managed System becoming compromised due to Customer use of the Service, Net Support UK Ltd reserve the right to charge a reconnection fee which must be paid in full

prior to the Services being restored. The amount of such charges vary with the Service and, where not contained in Service Specific Terms, will be provided to the Customer in advance of any applicable suspension.

11 Termination

- 11.1 Once commenced, the Agreement shall continue until terminated by either party.
- 11.2 The Customer may terminate this Agreement for breach if Net Support UK Ltd;
 - (a) materially fail to provide the Services as agreed and do not remedy that failure within ten (10) working days of receiving written notice from the Customer describing the failure;
 - (b) materially fail to meet any other obligation stated in the agreement and do not remedy that failure within thirty (30) working days of receiving written notice from the Customer describing the failure
- 11.3 Net Support UK Ltd may terminate the Agreement for breach if;
 - (a) the information provided by the Customer for the purposes of establishing the Services is materially inaccurate or incomplete;
 - (b) the individual signing the Agreement or Service Order did not have the legal authority to enter into the Agreement on behalf of the Customer;
 - (c) the payment of any invoiced amount relating to the Services is overdue and the Customer does not pay the overdue amount within four (4) Business Days of Net Support UK Ltd's written notice to the Customer;
 - (d) the Customer fails to comply with any other obligation stated in the Agreement and does not remedy the failure within thirty (30) days of Net Support UK Ltd's written notice to the Customer describing the failure;
 - (e) the Customer contravenes section 6.0 of these terms regarding export matters or any section of the Acceptable Use Policy relating to export control;
 - (f) with the exception of any provisions relating to export control, the Customer breaches any provision of the Acceptable Use Policy more than once even if each breach is remediated; or
 - (g) any other agreement the Customer has with Net Support UK Ltd for other Services is terminated for breach of the acceptable use policy applicable to that service.
- 11.4 Either party may terminate the Agreement with immediate effect on written notice if the other (or it is reasonably believed that the other) is unable to pay its debts or enters into compulsory or voluntary liquidation or compounds with or contravenes a meeting of its creditors or has a receiver or manager or an administrator appointed (or an application is made to the court for the same) or ceases for any reason to carry on business or takes or suffers any similar action which means that it may be unable to pay its debts.
- 11.5 Either party may terminate the Agreement by giving three (3) calendar months' notice in writing to the other.

- 11.6 If the Customer terminates the Agreement during the Minimum Service Period, the Customer must pay Net Support UK Ltd the termination charges equating to 100% of the charges for the remainder of the Minimum Service Period.

12 Limitation of Liability

- 12.1 Net Support UK Ltd is not liable in contract, tort (including negligence) or otherwise for loss whether direct or indirect of business, revenue or profits, anticipated savings or wasted expenditure, corruption or destruction of data, loss of reputation or for any indirect or consequential loss resulting from the Customer's use of or inability to use the Services.
- 12.2 Nothing in these Terms and Conditions shall exclude either party's liability for:
- (a) personal injury or death caused by its negligence;
 - (b) any fraud or fraudulent misrepresentation.
- 12.3 The service credits stated in any applicable Service Level Guarantee or Service Level Agreement are the exclusive remedy for Net Support UK Ltd's failure to meet those service levels for which service credits apply.
- 12.4 The Customer acknowledges that any Services we supply are not designed, manufactured, authorised or warranted to be suitable for use in any system where a failure of such system could result in a situation that threatens the safety of human life, including without limitation any medical, life support, aviation or nuclear applications. Any such use and subsequent liabilities that may arise from such use are totally the responsibility of the Customer, and all liability, whether in contract, tort or otherwise in relation to the same is excluded subject to Clause 12.2.
- 12.5 Net Support UK Ltd personnel may from time to time recommend third party software or other products and services for the Customer's consideration. Net Support UK Ltd makes no representation or warranty whatsoever regarding such products and services. The Customer's use of any products and services not provided by Net Support UK Ltd is governed by the terms of any agreement with the provider of those products and services, and is at the Customer's sole risk. Net Support UK Ltd is not responsible in any way for the third party product's performance, features or failures.

13 Indemnification

- 13.1 Net Support UK Ltd will indemnify The Customer, including their employees and agents, against claims or legal proceedings brought against The Customer by a third party, arising out of Net Support UK Ltd's actual or alleged negligence or breach of law. The Customer will notify Net Support UK Ltd of any such claims and will keep Net Support UK Ltd informed as to the progress of such claims or proceedings.
- 13.2 The Customer will indemnify Net Support UK Ltd including their employees, agents and contractors against any claims or legal proceedings brought against Net Support UK Ltd by a third party, arising out of The Customer's actual or alleged negligence, breach of law or a breach of the Acceptable Use Policy. Net Support UK Ltd will notify the Customer of any such claims and will keep the Customer informed as to the progress of such claims or proceedings.

14 Intellectual Property

- 14.1 The Customer agrees that, all copying, redistribution or publication of any material or information subject to any rights (including intellectual property rights) of a third party will be carried out by the Customer (or on their behalf) in accordance with all relevant Laws.
- 14.2 If Net Support UK Ltd or any of its customers is faced with a credible claim that the Services infringe the intellectual property of a third party, and Net Support UK Ltd is not reasonably able to obtain the right to use of the infringing element or modify the Services such that they do not infringe, then Net Support UK Ltd may terminate the Services on reasonable notice of at least ninety (90) days and it will not have any liability on account of such termination except to refund amounts paid for Services not used at the time of termination.
- 14.3 Where supplied, Net Support UK Ltd grants the Customer a non-exclusive, non-transferable license to use the Software to access the Services.
- 14.4 Where supplied, The Customer will not, without Net Support UK Ltd's prior written consent, copy or (except as permitted by law) decompile or modify the Software, nor copy any manuals or documentation.
- 14.5 Where supplied The Customer will sign any agreement reasonably required by the owner of the copyright in the Software to protect the owner's interest in that Software.
- 14.6 Each party retains all rights, title and interest in and to their respective trade secrets, inventions, copyrights and other intellectual property. Any intellectual property developed by Net Support UK Ltd during the performance of the Services shall belong to Net Support UK Ltd, unless we have agreed with you in advance in writing that you shall have an interest in the intellectual property.

15 Confidential Information

- 15.1 The parties will keep in confidence any information (whether written or oral) of a confidential nature (including software and manuals) obtained under this Agreement and will not disclose that information to any person (other than their employees or professional advisers, or in the case of Net Support UK Ltd the employees of a Net Support UK Ltd Group Company who need to know the information) without the written consent of the other party.
- 15.2 This section 15 will not apply to:
 - (a) Any information which has been published other than through a breach of this agreement;
 - (b) Information lawfully in the possession of the recipient before the disclosure under this Agreement took place;
 - (c) Information obtained from a third party who is free to disclose it;
 - (d) Information which a party is requested to disclose and if it did not could be required by law to do so. The disclosing party shall notify the other in writing of such disclosure.

- (e) Information in response to a court order or other compulsory legal process, provided that each of us agrees to give the other written notice of at least seven days prior to disclosing confidential information under this clause (or prompt notice in advance of disclosure if seven days' notice is not reasonably feasible), unless the law forbids such notice. Where information has been disclosed without prior notice the disclosing party must notify the other party as soon as possible thereafter (to the extent permitted by law).

16 Force Majeure

- 16.1 Neither party will be in breach of the Agreement if the failure to perform the obligation is due to an event beyond their control, such as significant failure of a part of the power grid, significant failure of the Internet, natural disaster, war, riot, insurrection, epidemic, strikes or other organised labour action, terrorism, or other events of a magnitude or type for which precautions are not generally taken in the industry.

17 Notices

- 17.1 Notices given under this contract must be in writing and delivered by hand, or sent by prepaid post or electronic mail as follows:
 - (a) To Net Support UK Ltd at the address of Net Support UK Ltd's office shown on the Service Order form or on the Customer's last invoice or any alternative address that Net Support UK Ltd notifies the Customer of;
 - (b) To the Customer at the address to which the Customer asks Net Support UK Ltd to send invoices, the address of the Customer's premises, or if the Customer is a limited company, its registered office.

18 Assignment

- 18.1 Neither party may assign or transfer any of their rights or obligations under this Agreement without the written consent of the other, except that Net Support UK Ltd may assign its rights or obligations (or both) to a Net Support UK Ltd Group Company without consent.
- 18.2 Net Support UK Ltd may use third party service providers to perform any or all parts of the Services, but Net Support UK Ltd remains responsible to the Customer under this Agreement for services performed by its third party providers to the same extent as if Net Support UK Ltd performed those services itself.

19 General

- 19.1 Neither failure nor delay by either party in exercising any rights under the Agreement shall amount to a waiver of any such right, or operate so as to bar the exercise or enforcement of such right at any time in the future.
- 19.2 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions will continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision omitted.

- 19.3 This Agreement contains the whole agreement between the parties and supersedes all previous written or oral agreements relating to its subject matter other than any fraudulent misrepresentation.
- 19.4 The Customer acknowledges and agrees that in entering into the Agreement they have not relied upon any oral or written representation, statement or understanding (whether negligently or innocently made) by any Net Support UK Ltd employees, agents, sub-contractors or representatives other than as expressly set out in the Agreement.
- 19.5 The Customer further acknowledges and agrees that they will have no remedy in respect of any untrue representation innocently or negligently made by Net Support UK Ltd or any of its employees, agents, subcontractors or representatives prior to entering into the Agreement upon which you may claim to have relied in entering into the Agreement whether such representation was made orally or in writing.

20 Law and Jurisdiction

- 20.1 This Agreement is governed by the law of England and Wales and both parties submit to the exclusive jurisdiction of the Courts of England and Wales except that Net Support UK Ltd may seek to enforce any judgement anywhere in the world where the Customer may have assets. Both parties agree that they will not bring a claim under the Agreement more than two (2) years after the event giving rise to the claim occurred.



Net Support UK Ltd

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