

One Managed Service Ltd – Managed Services Agreement

These Terms and Conditions are the standard terms that apply to all Proposals entered into with us, One Managed Service Ltd, a company registered in England under number 12230972, of 180 Melton Road, Leicester, England, LE4 5EE (“the Company”).

These Terms and Conditions apply to business Clients only – we do not provide our Services to consumers (as defined in the Consumer Rights Act 2015).

1. Definitions and Interpretation

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

“Client” means the business detailed in our Proposal to which the Services are to be supplied. Where any individual enters into the Contract on behalf of a business, that person confirms they have the authority to contractually bind and enter into the Contract on behalf of that business and the business shall be the Client in the context of this Contract;

“Software” means the software which may be maintained and supported by the Company as part of the Services if specified in the Proposal;

“Fees” means the fees due for the Services as specified in the Proposal;

“Equipment” means the computer hardware, devices and software which are to be maintained and supported by the Company as part of the Services;

“Services” means the IT consultancy, Equipment and support services to be provided by us to you as set out in our Proposal;

“Site” means the location at which the Services are to be provided;

“Commencement Date” means the commencement date as defined in the Proposal;

“Proposal” remains open for acceptance for a period of 30 days and means the written proposal for the performance of the Services or any other Services as may from time to time be amended by the written agreement of both the Company and the Client;

“Term” means the term of this Contract as defined in the Proposal.

1.2 Unless the context otherwise requires, each reference in this Contract to:

1.2.1 “we”, “us” and “our” is a reference to the Company and includes our employees, subcontractors and agents;

1.2.2 “you” and “your” is a reference to the Client and includes your employees, subcontractors and agents;

1.2.3 “writing” and “written” includes emails and similar communications;

1.2.4 a statute or a provision of a statute is a reference to that statute or provision as may be amended or re-enacted at the relevant time;

1.2.5 “this Contract” is a reference to this Contract and each of the Schedules as amended or supplemented at the relevant time;

1.2.6 a Schedule is a schedule to this Contract;

1.2.7 a clause or paragraph is a reference to a clause of this Contract (other than the Schedules) or a paragraph of the relevant Schedule; and

1.2.8 a “Party” or the “Parties” refer to the parties to this Contract.

1.3 The headings used in this Contract are for convenience only and shall have no effect upon its interpretation.

1.4 Words imparting the singular number shall include the plural and vice versa. References to any gender shall include the other gender. References to persons shall include corporations.

2. The Contract

2.1 The signing of our Proposal by the Client, electronically or otherwise, or the placement of an order, creates a legally binding Contract between you and us and includes the acceptance of these terms and conditions, which will apply between us.

2.2 No terms or conditions stipulated or referred to by you in any form whatsoever shall in any respect vary or add to these terms and conditions unless otherwise agreed by us in writing.

2.3 You are responsible for the accuracy of any information submitted to us and for ensuring that the Contract reflects your requirements. Our Proposal is based on the information provided to us at the time of its preparation. Should any errors or discrepancies become evident which affect our order value, we reserve the right to make adjustments to it.

2.4 Our Proposal shall constitute our entire scope of works and includes an agreed amount of support for a set number of users or computers but shall be subject to amendment as detailed below.

2.5 This Contract will commence on the Start Date specified and will continue in force for any minimum Term specified in the Proposal unless it is terminated in accordance with clause 7.

2.6 The Services may change depending on any additional requests during the Term, all changes must be made in writing and the Fees agreed.

3. Retained and Project Support Services

3.1 The Support Services shall commence on the Commencement Date outlined in the Proposal. Support will either be on a retained basis, or on an ad-hoc basis

3.2 If you have opted for support on a retained basis:

3.2.1 The commencement date shall be the start of your 12-month term, once the 12-month term has completed it shall renew on a 3-month rolling basis.

3.2.2 All Services provided under this Contract will be invoiced on a monthly basis in advance throughout the Term of the Contract.

3.2.3 Should the Client fail to use all the hours for which we are contracted on a retained basis, the hours will be lost.

3.2.4 Should the Client need more hours on a retained basis then all additional hours will be charged at our standard hourly rate

3.3 If you have opted for support on an ad-hoc basis:

3.3.1 You shall be liable to pay the Fees within 30 days of the commencement date

3.3.2 We will provide an estimated number of hours required for the Services to be provided, which shall be as outlined in our Proposal. Should we require additional hours to complete the works, we will seek your permission by sending a further Proposal, before proceeding with the additional works.

3.3.3 Should your requirements change at any time after acceptance of our Proposal, which would affect the Fees to be charged, we reserve the right to make the necessary adjustments and invoice for any additional works accordingly.

3.4 With effect from the commencement date the Company shall, in consideration of the

Fees being paid in accordance with the terms of Payment herein, provide the Services to the Client as described within the Company’s written Proposal.

3.5 Where we have agreed to attend a scheduled visit, mileage and any other expenses shall be payable which will be detailed in our Proposal.

3.6 All Services will be carried out during our normal business hours of 9am – 5pm, Monday to Friday excluding bank holidays in England, unless otherwise stated in the Proposal with extended support. Any works required outside of our normal business hours shall incur additional costs.

3.7 Both Parties will be required to appoint a primary contact in relation to the Services and will endeavour to ensure continuity but shall have the right to replace any such primary contact as required.

3.8 We shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, to meet the changing needs of the Client or which do not materially affect the nature or quality of the Services, and we shall notify the Client in any such event.

We may provide you with such information and advice in connection with the Services and the provision thereof as you may, from time to time, reasonably require. However, we accept no responsibility for any actions taken as a result of such advice or recommendations, nor shall we be liable for any consequences should our professional advice not be taken.

The following applies for Support Services

3.9 We will make all reasonable efforts to respond to support requests within any service level response times specified in the Proposal but time will not be of the essence in the performance of these obligations. The initial response to such a request will be by an investigation of the problem by telephone or remotely.

3.10 Requests which cannot be resolved by telephone or remotely may require further investigative work. The request may be escalated and an engineer may visit the relevant Site. On-site visits will only be provided if these are included within the Contract and then will only be provided within our normal business hours unless otherwise specified in the Proposal. On-site visits where we have agreed to provide remote support only, or visits outside our normal business hours, will be chargeable.

The following applies for Software Services

3.11 Where we are providing you with anti-virus and anti-spam protection under the Contract, we will use all reasonable endeavours to ensure it is kept up-to-date. However, we cannot guarantee that such protection will block all viruses or spam and you are required to remain vigilant at all times and to follow any guidance we and/or the software manufacturer may provide in relation to internet best practice. In relation to this clause 3.11 you are required to complete your obligations as detailed in clause 4 below and in particular the provisions of clause 4.16 regarding password selection.

3.12 We may need to temporarily suspend provision of the whole or any part of the Services to enable repairs, maintenance or improvement of the Services. Where possible we will provide advance notice. We will restore the Services as soon as reasonably practicable following any suspension.

3.13 We will use our best endeavours to ensure the Software Services are uninterrupted, and we shall monitor for downtime and endeavour to resolve issues within 2 hours of becoming aware of such issues. However, we will be under no liability to refund any Fees for any period of downtime encountered.

3.14 We calculate our Fees on the basis that you will use the Services in a fair and reasonable manner.

4. **Client’s Obligations:** You agree, where applicable, to:

4.1 report faults promptly to us, in any event within 24 hours of discovering the fault;

4.2 provide us with such information and assistance in connection with the Services as we may reasonably require, within sufficient time to enable us to perform the Services in accordance with the Contract;

4.3 immediately stop the use of any faulty Equipment;

4.4 perform your obligations under this Contract in a reasonable and timely manner;

4.5 not sub-licence our Services to any third party;

4.6 not remove, modify or obscure any copyright, trade mark or other proprietary rights notices that are contained in the Service

4.7 act in accordance with any and all reasonable instructions issued by us in relation to the Services;

4.8 consult with us in advance with respect to any new computer hardware, devices and/or software which you intend to procure;

4.9 allow us access to the Site at all reasonable times for the purpose of providing the Services;

4.10 ensure operators and other staff using the Software or Equipment are properly trained, operate the Software or Equipment within the standards as laid down by us and the manufacturer or cloud based provider, and comply with our advice in connection with the use and operation of the Software or Equipment;

4.11 not allow any person other than us (or a person acting under our instruction) to interfere with, modify, repair, relocate or service the Equipment;

4.12 inform us of any change in your address or contact details;

4.13 ensure that any usage limits are adhered to and not use any Service in an excessive, unusual or unexpected manner or for a purpose other than which it is intended.

4.14 virus-check all data and material supplied to us;

4.15 keep secure from third parties any passwords issued by us to you;

4.16 to ensure that any device connected to the Service is protected by on-device anti-virus and anti-malware software and that all important data is backed up on a regular basis.

4.17 ensure passwords chosen by you and all of your employees, agents and sub-contractors are suitably strong, containing a combination of letters, numbers and symbols, and are changed regularly, no less frequently than once every 3 months;

4.18 obtain and maintain all necessary licences, permissions and consents in connection with the Services.

4.19 Any failure to comply with the above obligations will be chargeable, at our discretion. comply at all times with the Equipment manufacturers’ specifications, including where replacement consumables are required

4.20 maintain any loaned Equipment in good working order and return it to us at the end of the Term in the same condition it was provided to you

5. Fees and Payment

5.1 You agree to pay the fees as set out in the Proposal in accordance with these terms of

- payment. All prices specified are expressed exclusive of VAT and are payable in pounds sterling without set-off, withholding or deduction.
- 5.2 Unless otherwise stated in writing, we shall charge any reasonable travelling time and travel expenses, any incidental expenses for materials used and for third party goods and services supplied in connection with the Services.
- 5.3 You will pay the Company for any additional services (and additional expenses incurred as a result) provided by us that are not specified in the Proposal. These additional services shall be charged in accordance with our then current, applicable rate in effect at the time of the performance or such other rate as may be agreed.
- 5.4 For Retained and Software Services, Fees shall be due on the Commencement Date for the following month in advance and every subsequent month on the same date.
- 5.5 For ad-hoc Services, Fees are payable within 30 days of the Commencement Date.
- 5.6 In addition, you will be required to reimburse us for any additional Services we may provide at your request together with all actual, reasonable travel expenses, any incidental expenses for materials used and any third party goods and services supplied in connection with the provision of the Services.
- 5.7 If the number of users increases from the number set out in the Proposal for Software support or licencing, you must notify us immediately. We will adjust the pricing within your next monthly invoice, commencing from the date we receive this notification. If we discover the number of users has increased and you have not notified us of this, we will estimate the number of months to which this increase applies and will adjust our invoice accordingly.
- 5.8 We shall be entitled at any time to increase our support fees under the Contract and in this event, will give you not less than 30 days' prior written notice.
- 5.9 Time for payment shall be of the essence of the Contract. If you fail to make payment in full by the due date then, without prejudice to any other rights which we may have, we shall have the right to suspend the Services (including any third party software accounts, where these are included in the Contract) and charge interest from the due date until payment is made in full, both before and after judgment, at the rate of 8% per annum over the Bank of England base rate from time to time in force, in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.
- 5.10 We reserve the right to charge for any aborted or cancelled visits to the Site where we are given less than 24 hours' notice of the cancellation.
- 6. Variation and Amendments**
- 6.1 If you wish to vary the Services to be provided, please notify us as soon as possible. We will endeavour to make any required changes and any additional costs incurred as a result will be chargeable.
- 6.2 If, due to circumstances beyond our control, we have to make any change in the arrangements relating to the provision of the Services, we will notify you immediately. We will endeavour to keep such changes to a minimum and will seek to offer you arrangements as close to the original as is reasonably possible in the circumstances.
- 6.3 Any agreed variation or amendment will be carried out in accordance with this Contract and any price increase necessitated as a result of an agreed variation or amendment will be payable in accordance with the terms for payment above.
- 7. Term and Termination**
- 7.1 The Contract for retained and Support Services will come into force on the Commencement Date specified in the Proposal and will continue for any minimum Term stated, subject to the provisions of this clause 7. The Contract will be automatically renewed on the same terms and conditions as set out in this Contract (with the exception of the price) on a rolling 3 month basis unless either Party terminates by giving not less than 3 months' written notice to the other prior to the end of the then-current Term.
- 7.2 We may terminate this Contract without liability to you by giving written notice if:
- 7.2.1 any sum owing to us by you under any of the provisions of this Contract is not paid within 14 days of the due date for payment;
- 7.2.2 you demand services which do not form part of the Services and which are not covered by this Contract; or
- 7.2.3 any of our employees suffer harassment or are abused by you or your employees during the term of this Contract.
- 7.3 Either Party may terminate this Contract without liability by giving written notice to the other, if the other Party:
- 7.3.1 commits any other breach of any of the provisions of this Contract and, if the breach is capable of remedy, fails to remedy it within 30 days after being given written notice of the breach and requiring it to be remedied;
- 7.3.2 goes into bankruptcy, liquidation or administration either voluntary or compulsory (save for the purposes of bona fide corporate reconstruction or amalgamation), if a receiver is appointed in respect of the whole or any part of its assets, or if the other party ceases, or threatens to cease, to carry on business.
- 7.4 For the purposes of clause 7.3.1, a breach shall be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.
- 7.5 Upon termination of this Contract for any reason, any sum owing by either Party to the other under any of the provisions of this Contract shall become immediately due and payable.
- 7.6 Termination of the Contract, howsoever arising, shall not affect or prejudice the accrued rights of the parties as at termination or the continuation of any provision expressly stated to survive or implicitly surviving termination.
- 8. Cancellation or Rescheduling**
- 8.1 Should you cancel or reschedule any scheduled visits or Services we shall be immediately entitled to payment up to 100% of our fees if cancellation or rescheduling takes place within 7 days or less of the date of the Commencement Date.
- 8.2 For any cancellations that occur 8 days or more before the Commencement Date. We reserve the right to levy reasonable cancellation charges, including but not limited to, any administration costs, procurement costs, loss of contract and loss of profit, against the Client and these shall fall due for payment immediately.
- 8.3 We require a minimum of 48 hours' notice to reschedule any Services that require a visit. Where such notice is not provided, we reserve the right to charge for this rescheduled visit and any expenses incurred as a result. We will endeavour to reschedule the visit to meet the Client's preferred date(s) and time(s), however we cannot guarantee this will be possible.
- 8.4 If, due to circumstances beyond our control, we have to cancel or reschedule a visit, we shall notify you immediately. We shall endeavour to keep such changes to a minimum and shall seek to offer you arrangements as close to the original as is reasonably possible in the circumstances. If the session must be cancelled and cannot be rescheduled, we shall return all sums paid relating to the visit within 14 days.
- 9. Documentation and Advice**
- 9.1 Any documentation we prepare will be based on information provided to us at the time by the Client and will be accurate at the date of its preparation. We cannot be held liable for any delays, errors, discrepancies or any other adverse consequences where the Client has provided incorrect information or has failed to provide information necessary for us to provide our professional advice.
- 9.2 We can provide advice and assistance regarding implementing the documentation we have provided, however, it is the Client's responsibility to ensure these recommendations are implemented correctly and fully.
- 9.3 We shall retain title to all documentation we prepare and final documentation shall not be handed over until all payments as detailed in clause 5 have been paid in full.
- 9.4 We shall issue the documentation in our standard format only. We will endeavour to accommodate any particular format requested by the Client, however this may be subject to an additional fee
- 10. Liability and Indemnity**
- 10.1 Nothing in this Contract or these Terms and Conditions seeks to limit or exclude our liability in respect of death or personal injury caused by our negligence; fraud or fraudulent misrepresentation; or any other liability which cannot lawfully be excluded or limited.
- 10.2 Except as provided in clause 9.1 above, we will not by reason of any representation, implied warranty, condition or other term, or any duty at common law or under the express terms contained herein, be liable for any loss of profit or any indirect, special or consequential loss, damage, costs, expenses or other claims (whether caused by our servants or agents or otherwise) in connection with the performance of our obligations under the Contract.
- 10.3 All warranties or conditions whether express or implied by law are expressly excluded to the extent permitted by law.
- 10.4 In the event of a breach by us of our express obligations under the Contract, your remedies will be limited to damages, which in any event, shall not exceed the total fees paid by you under the Contract in the preceding 12-month period.
- 10.5 You will indemnify and hold us harmless from and against any and all claims, costs and liabilities howsoever arising and of whatsoever nature (including any consequential or indirect costs or losses) and whether in contract or in tort, including injury to or death of any person or persons or loss of or damage to any property arising out of or in respect of the performance by you of your obligations under the Contract if and to the extent that such losses, costs, damages and expenses are caused or contributed to by your negligent acts or omissions or those of any persons for which you are otherwise legally liable.
- 11. Intellectual Property**
- 11.1 Subject to a written agreement to the contrary, we reserve all intellectual property rights which may subsist in the provision of the Services. We reserve the right to take such actions as may be appropriate to restrain or prevent infringement of such intellectual property rights.
- 11.2 Where software is provided, unless otherwise agreed in writing by the parties and provided payment is received by us in accordance with the terms of payment above, we will grant you a perpetual, non-transferable, non-sub-licensable licence in respect of the use of the software. You acknowledge that you obtain no ownership of any intellectual property rights in respect of any such software and that your use of any such intellectual property rights is conditional on us obtaining permission from the relevant licensor entitling us to licence such rights to you.
- 11.3 You shall immediately bring to our attention any infringement or suspected infringement of any of the intellectual property rights licensed hereunder of which you are aware and shall at our request take such action or assist us in taking such action as we may deem appropriate to protect the intellectual property rights.
- 11.4 You warrant that any document or instruction furnished or given by you shall not cause us to infringe any letter patent, registered design or trade mark in the execution of our Services and shall indemnify us against all loss, damages, costs and expenses awarded against or incurred by us in settlement of any claim for infringement of any patent, copyright, design, licence, trademark or any intellectual property rights which results from our use of your information.
- 12. Confidentiality**
- 12.1 Each Party undertakes that throughout the duration of the Contract, the Parties will disclose certain confidential information to each other. Both parties agree that they will not use the confidential information provided by the other, other than to perform their obligations under the Contract. Each Party will maintain the confidential information's confidentiality and will not disseminate it to any third party, unless required by law or unless so authorised by the other Party in writing.
- 12.2 You acknowledge and agree that in order to provide our Services, we will require access to your Equipment and may need to log in remotely. Any personal data will be kept confidential and will only be used in accordance with our rights and obligations under clause 12.
- 13. Relationship of the Parties**
- 13.1 Nothing in this Contract shall render or be deemed to render us an employee or agent of yours or you an employee or agent of ours.
- 13.2 Nothing in this Contract shall constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in this Contract.
- 14. Data Protection**
- 14.1 All personal information that we may collect (including, but not limited to, your name and address) will be collected, used and held in accordance with the provisions of the Data Protection Act 2018, to be superseded by the General Data Protection Regulation 2016, and any subsequent amendments to them.
- 14.2 We will not pass on your personal information to any third parties without first obtaining your express permission.
- 14.3 We share data with our service providers whose tools or services we use for billing,

support services and management, CRM, security, accounting, authentication, reporting, training and to run and improve our portals and businesses. We make sure any third parties with whom we share personal data with will use the data only for the purpose of providing their services to us, and in a manner consistent with our privacy policy.

15. **Force Majeure:** No Party to this Contract shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.
16. **Assignment and Sub-Contracting**
 - 16.1 You may not, without our prior written consent, assign, transfer, charge, sub-contract or deal in any other manner with all or any of your rights or obligations under the Contract.
 - 16.2 We may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of our rights or obligations under the Contract, without obtaining your prior consent.
17. **Non-Solicitation:** Neither Party shall, for the Term of this Contract and for a period of 6 months after its termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the other Party at any time in relation to this Contract, without the express written consent of that Party, nor solicit or entice away from the other Party any customer or client of that Party where any such solicitation or enticement would cause damage to the business of that Party, without the express written consent of that Party.
18. **Waiver:** No failure or delay by either Party in exercising any of its rights under the Contract shall be deemed to be a waiver of that right, and no waiver by either Party

of a breach of any provision of the Contract shall be deemed to be a waiver of any subsequent breach of the same or any other provision.

19. **Entire Agreement:** The Contract constitutes the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter. Each Party acknowledges that, in entering into this Contract, it does not rely on any representation, warranty or other provision except as expressly provided in this Contract.
20. **Third party rights:** No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract.
21. **Notices:** Notices will be deemed to have been duly received and properly served 24 hours after an email is sent or three working days after the date of posting of any letter. In proving the service of any notice, it will be sufficient to prove, in the case of a letter, that it was properly addressed to the address provided, stamped and placed in the post and in the case of an email, that it was sent to the specified email address of the addressee.
22. **Severance:** In the event that one or more of the provisions of this Contract is found to be unlawful, invalid or otherwise unenforceable, that/those provision(s) shall be deemed severed from the remainder of this Contract. The remainder of this Contract shall be valid and enforceable.
23. **Law and Jurisdiction**
 - 23.1 These Terms and Conditions and the Contract between you and us (whether contractual or otherwise) will be governed by, and construed in accordance with, the laws of England and Wales.
 - 23.2 Any dispute, controversy, proceedings or claim between you and us relating to the Contract or these Terms and Conditions (whether contractual or otherwise) will be subject to the jurisdiction of the courts of England and Wales.