

bluegfx may make various Goods / Services available to the Customer, as set out in a relevant Order. These Standard Terms and Conditions of Business ("**Terms**") apply to each Order that the Customer places with bluegfx for those Goods/Services to the exclusion of all other terms, conditions, courses of dealing or implied terms.

1. Definitions and interpretation

1.1 The following terms shall have the following meanings as set out below, unless otherwise specified in these Terms:

"Acknowledgement" means an acknowledgement of an Order placed by the Customer with bluegfx pursuant to clause 4, which shall also be referred to as an **"Order Confirmation"**.

"Additional Supported Equipment" means any additional equipment that the Customer and bluegfx agree is to be supported by bluegfx as part of the Support Services, or as described in a revised Report signed by both parties.

"bluegfx" means Blue Graphics Ltd (CN 04427892) whose registered office is at Lammas Gate, 84 Meadow, Godalming, Surrey GU7 3HT.

"Bronze Support Services" means those Support Services described as Bronze Support Services in the Schedule.

"Configuration and Installation Services" means the services that bluegfx may provide to the Customer (as indicated in the Quotation) relating to the configuration and installation of Goods at the Customer's agreed premises, as detailed more particularly in Clauses 6.4-6.6, and forming part of the Services that may be provided to a Customer as indicated in the Quotation.

"T/the Customer" means any Person, Public Authority, Partnership, Company or other Corporate Body who places an order for goods or services on bluegfx.

"End User Agreement" means the end user agreement applicable to any of the Goods or Services to be provided to the Customer as detailed in an Order, as between the Customer and any Third Party Provider, as notified to the Customer by the Third Party Provider, which may include any terms of use of software forming part of any Goods/Services included in an Order.

"Gold Support Services" means those Support Services described as Gold Support Services in the Schedule.

"Goods" means any and all goods that may be included as part of an Order that the Customer may place with bluegfx in accordance with these Terms.

"Intellectual Property Rights" means all patents, rights to inventions, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in goodwill, rights in designs, rights in software, database right, rights in confidential information and any other intellectual property rights (in each case whether registered or not) including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Order" means all orders placed by the Customer with bluegfx for Goods or Services, which may be placed by the Customer in accordance with clause 4 below.

"Premises" means the Customer's premises where the Supported Equipment is initially located at the time that bluegfx agrees to provide Services with respect to that Supported Equipment.

"Quotation" means the quotation provided by bluegfx to the Customer (if any) setting out details of the Goods/Services anticipated to be provided by bluegfx to the Customer, which is subject to these Terms.

"Supported Equipment" means the equipment in respect of which the Support Services are to be provided under these Terms, which in the case of Bronze Support Services and the Silver Support Services is limited to Goods purchased from bluegfx as detailed in an Order or as agreed to be supported by bluegfx, and which in the case of Gold Support Services is limited to the equipment detailed in a Report.

"Silver Support Services" means those Support Services described as Silver Support Services in the Schedule;

"Services" means the Installation and Configuration Services and the Support Services, as detailed in an Order that the Customer may place with bluegfx in accordance with these Terms, as described in any relevant Quotation or Acknowledgement, and provided in accordance with these Terms.

"Support Services" means the support services that may form part of an Order, being either Bronze Support Services, Silver Support Services or Gold Support Services, and which bluegfx will provide to the Customer in accordance with these Terms if it has issued an Acknowledgement of the Customer's Order incorporating a request for such services.

"Third Party Provider" means any third party provider of software or other Goods/Services that may be included in an Order.

"Working Day" means a business day in the UK when banks are open for business.

1.2 These Terms can only be varied by a duly appointed director of bluegfx, or unless agreed in writing between a duly appointed director of bluegfx and the Customer, to which such variation shall apply to a specified Order or series of Orders.

1.3 Each Order and the accompanying Acknowledgement shall constitute a separate agreement between bluegfx and the Customer.

1.4 To the extent of any inconsistency between an Order, an Acknowledgement and these Terms, the following shall take priority: first these Terms, then the Acknowledgement, then the Order.

2. Notice

All notices and acknowledgements and advices and invoices shall be deemed as received by bluegfx and by the Customer within 2 Working Days when delivered by 1st class post, 3 Working Days when delivered by 2nd class post and 1 Working Day when delivered by fax. Where these Terms refer to notices to be served or variations to be made in 'writing', such notices shall not be validly served by e-mail. For the avoidance of doubt, the parties may communicate via e-mail (including the provision of Acknowledgements, Quotations, Orders and general communication between the parties). No communication by Telex can be accepted nor made by either party.

3. Prices

3.1 The Customer accepts that for all Orders for Goods and/or Services placed by the Customer with bluegfx, the price or prices that shall apply is as set out in any relevant Quotation (if provided), or the Order, or if no price is stated in that Order, then the price shall be those currently offered by bluegfx as set out on its website or as otherwise advised to the Customer in writing from time to time.

3.2 Bluegfx reserves the right to amend prices at any time prior to the issue of its Acknowledgement of an Order. Any Quotations provided for Goods or Services shall be valid for a period of three (3) months from the date of such Quotation.

3.3 For specific projects and contracts, the relevant prices shall be those agreed in writing between the parties and as confirmed by bluegfx in an Acknowledgement, irrespective of any other price offered by bluegfx generally or to another Customer.

4. Orders and Acknowledgements

4.1 A Customer may place an Order with bluegfx, by either email, telephone, through bluegfx's online store, in response to a Quotation or other agreed method, for Goods and/or Services. The Customer's Order shall constitute an offer by the Customer to purchase Goods and/or Services from bluegfx in accordance with these Terms.

4.2 Where bluegfx wishes to accept a Customer's offer to place an Order with bluegfx to purchase Goods and/or Services detailed in an Order, then bluegfx shall issue an Acknowledgement for that Order. The Acknowledgement shall generally be provided by e-mail and shall be made to the person at the Customer named on the Order, or if no person is named, to the Customer generally. The Order shall be deemed to be accepted if bluegfx acts in a way consistent with fulfilling that Order, which shall be subject to these Terms.

4.3 Bluegfx shall not be committed to undertaking an action of any kind by an Order until an Acknowledgement has been issued. Once an Acknowledgement of an Order has been issued by bluegfx to the Customer, or the Order has been accepted by bluegfx in accordance with clause 4.2 above, a contract for the provision of the Goods / Services shall come into existence and be governed by these Terms and any relevant provisions detailed in the Acknowledgement of Order.

4.4 Each Acknowledgement and relevant Order shall be subject to these Terms and shall state (i) the target delivery date for the Goods and/or Services relevant to an Order as known at the time of the Acknowledgement; and (ii) subject to clause 3, the price for the Order including VAT and delivery charges if any.

4.5 Subject to clause 14, the Customer undertakes to accept delivery of any and all Goods and/or Services ordered and as stated in each Acknowledgement.

4.6 Once a contract for the provision of Goods/Services has been formed in accordance with these Terms, bluegfx shall endeavour to supply the Goods/Services in accordance with the Quotation (if any), as confirmed in the Acknowledgement of Order.

4.7 Where an Order for Goods/Services includes Third Party Provider Goods/Services, then the Customer acknowledges that the End User Agreement terms relevant to that Third Party Provider shall apply to the Customer. Applicable End User Agreement terms are available from the relevant Third Party Provider upon request.

4.8 Bluegfx shall endeavour to deliver the Goods/Services that are the subject of an Order of the Customer within a reasonable period of time. For the avoidance of doubt, time is not of the essence of the contract relating to delivery.

4.9 Where applicable, bluegfx shall be entitled to deliver any Goods/Services by instalments. Failure to deliver any one instalment of the Goods shall not be deemed to be defective delivery.

4.10 The Customer agrees to co-operate with bluegfx in respect of the delivery of the Goods/Services, in order to fulfil the delivery obligations of bluegfx under these Terms.

5. Cancellation or Deferral of Order

5.1 The Customer may cancel or defer Goods or Services that are the subject of an Order at any time prior to receipt of an Acknowledgement by bluegfx.

5.2 Once bluegfx has issued an Acknowledgement, or the contract is formed following bluegfx's acceptance of an Order in accordance with clause 4.2, the Customer agrees to meet all reasonable costs arising out of or in connection with the Customer's cancellation or deferral of an Order, or any part or portion thereof, including (without limitation) and costs of suppliers or Third Party Providers. Bluegfx agrees to provide evidence of such costs and to invoice for them and the Customer agrees to make full payment for such costs within 30 days of the issue of an invoice for them by bluegfx.

6. Goods and Services warranties

Goods

6.1 Where bluegfx is providing Goods which are subject to a warranty or guarantee from a Third Party Provider, then bluegfx shall transfer any such warranty or guarantee from the original manufacturer or Third Party Provider to the Customer to the extent that such warranty or guarantee is transferable by the original manufacturer or Third Party Provider from bluegfx to the Customer.

6.2 The Customer shall return Goods for which a claim under any applicable warranty or guarantee is being made, as advised by bluegfx when the claim is made by the Customer. The Customer acknowledges that any applicable warranty or guarantee in relation to any Goods will be subject to the applicable Third Party Provider's End User Agreement terms and bluegfx shall not be directly liable to the Customer in respect of any such warranty or guarantee.

6.3 Subject to clause 11, bluegfx shall provide its Services to the Customer with reasonable skill and care, in a timely manner, and without breaching any applicable laws.

Configuration and Installation Services

6.4 If detailed in the Quotation and confirmed in the Order Confirmation, bluegfx will provide the Customer with the Configuration and Installation Services at its agreed premises in connection with the Goods supplied by bluegfx, as detailed in a relevant Quotation and/or Order Confirmation.

6.5 If Configuration and Installation Services are to be provided by bluegfx to a Customer, then the Quotation will provide details of the agreed premises of the Customer where the Configuration and Installation Services shall be provided, together with the price payable for such Configuration and Installation Services which bluegfx shall be entitled to invoice at the time of making delivery of the configured Goods, and such invoice shall be payable in accordance with Clause 8 below as part of the Services provided by bluegfx under these Terms.

6.6 Where Configuration and Installation Services are to be provided, bluegfx will configure the software and hardware that bluegfx provides as part of the Goods under these Terms and deliver the configured Goods to the Customer at the agreed Customer premises and install the configured Goods into the Customer's network / infrastructure as agreed between the parties and set out in the relevant Quotation. The Customer shall check that the configured Goods work in accordance with the descriptions provided by bluegfx. The Customer shall sign the relevant paperwork provided to it by bluegfx to sign-off the configured Goods as accepted ("**Sign-Off Date**"). bluegfx shall guarantee the Configuration and Installation Services for a period of thirty (30) days from the Sign-Off Date ("**Guarantee Period**"), during which bluegfx will correct any errors in the Configuration and Installation Services at no additional charge to the Customer, subject to any such errors not being due to the Customer's use of the Goods that have been subject to the Configuration and Installation Services outside of the scope of use of such Goods, or where such error has been caused by the Customer's interference with the Goods, or any changes made to the Goods by the Customer and/or any other third party.

Support Services

6.7 bluegfx will provide the Customer with the Support Services set out in an Order Confirmation, being either Gold Support Services, Silver Support Services or Bronze Support Services. If an Order Confirmation does not specify the Support Services to be provided, bluegfx will provide the Customer with Bronze Support Services unless otherwise agreed.

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6.8 The Support Services shall be provided on the terms relevant to the category of the applicable Support Services, and in connection with the relevant Supported Equipment.

6.9 If the Customer wishes to have Support Services provided in connection with any Additional Supported Equipment, then the parties shall agree what Additional Supported Equipment shall form part of the Supported Equipment and any descriptions of the Supported Equipment shall be deemed to incorporate the Additional Supported Equipment once agreed by both parties. The inclusion of any Additional Supported Equipment as part of the Supported Equipment shall include agreement on the additional charges payable by the Customer in connection with the Support Services to be provided for the Additional Supported Equipment, which are payable in accordance with these Terms.

6.10 bluegfx shall not be required to provide Support Services in respect of equipment which is not Supported Equipment ("Unsupported Equipment") until such Unsupported Equipment has been agreed to be included as Supported Equipment. If such Unsupported Equipment causes any technical issues with the Supported Equipment which is being supported through the provision of Support Services, then if bluegfx is required to perform any fixes in respect of that Unsupported Equipment bluegfx reserves the right to charge fees for any technical work or fix that may be required in order to remedy such technical issue.

Provision of Services

6.11 bluegfx will provide the Services using reasonable skill and care, and shall comply (and ensure its employees comply) with reasonable health and safety and security requirements of the Customer (whilst on the Premises) that are notified to bluegfx by the Customer.

7. Customer Obligations

The Customer shall:

- (a) co-operate with bluegfx in all matters relating to these Terms;
- (b) provide such access to the Premises, Supported Equipment and other facilities as may reasonably be requested by bluegfx for the purposes of providing the Services to the Customer;
- (c) provide such information as bluegfx may reasonably request, in order to carry out the Services in a timely manner;
- (d) inform bluegfx of all health and safety rules and regulations and any other reasonable security requirements that apply at the Premises; and
- (e) if presented with documentation by bluegfx (or any of its employees or authorised subcontractors) for the purposes of signing off the Services performed on behalf of the Customer at its Premises (or otherwise), sign off and/or communicate acceptance of them. For the avoidance of doubt, the Customer shall only be obliged to sign-off the Services where the Customer is satisfied that such Services have been carried out in accordance with these Terms, in the Customer's reasonable opinion.

8 Payment

8.1 All Goods and any Installation and Configuration Services shall be paid for in full to bluegfx including any VAT payable, in accordance with the payment terms set out in a Quotation (if any), or the Acknowledgement, within 30 (thirty) days of the date of such invoice, or such period and/or such payment schedule as set out in bluegfx's Quotation or Acknowledgement. "Within 30 (thirty) days" means here within 30 calendar days. Bluegfx accepts no other interpretation of the phrase "within 30 days".

8.2 All Support Services shall be paid for in accordance with the terms applicable to the relevant support service category as specified in the Schedule.

8.2 If bluegfx agrees any payment terms that are different to the terms set out in clauses 8.1 and 8.2 above, then those payment terms (including the terms relating to any finance options) will be recorded separately in writing and set out in the Quotation (if any) and the Acknowledgement or otherwise in writing (which can include by email from bluegfx).

8.3 Bluegfx reserves the right to invoice the Customer for interest on all amounts not paid in accordance with this clause at 4% per annum above the Bank of England official dealing rate calculated daily for all days outstanding until the amount invoiced has been paid in full to bluegfx. The Customer agrees to make payment of any valid invoices for interest presented by bluegfx within 30 days from the date of such invoice.

8.4 The Customer agrees to reimburse bluegfx for any reasonable and direct costs incurred by bluegfx arising from the provision of the Goods/Services to the Customer (including, without limitation, travel expenses), or arising from cheques or payments made in any form which are not honoured or met by the Customer's bankers. Bluegfx agrees to provide details of such costs to the Customer and the Customer shall pay any such costs or expenses upon receipt of notice of such costs or expenses from bluegfx.

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8.5 For the avoidance of doubt, if a Customer places an Order for Goods/Services through the online store of bluegfx, the Customer shall make payment in the same manner set out above in this clause 8 and shall not be able to make payment for the Goods/Services through the online store.

9. Risk and Retention of Title

9.1 Any Goods to be provided to the Customer by bluegfx under an Order shall be at the risk of bluegfx until delivery to the Customer at the place of delivery specified in bluegfx's Acknowledgement of Order.

9.2 All Goods supplied remain the property of bluegfx until payment in full and cleared funds has been credited to bluegfx's bank account, provided that the Customer shall have a licence to use the relevant Goods until such payment has been received by bluegfx in full and cleared funds.

9.3 At any time after the date on which payment becomes due for any Order in accordance with these Terms, bluegfx reserves the right to resume possession of any Goods delivered until such time as full and cleared funds for the relevant payment has been credited to bluegfx's account. Such resumption may be from the Customer or from any party who may be in possession of them, or any party appointed by bluegfx. The Customer undertakes to inform bluegfx on request of the whereabouts at all times of all Goods delivered until payment for Goods has been credited to bluegfx's account. The Customer also gives to bluegfx a licence to enter any premises on which the Goods are stored until such time as full and cleared funds are paid to bluegfx by the Customer for the Goods.

9.4 Until payment in full and cleared funds for the Goods has been sent to bluegfx by the Customer, the Customer agrees to hold the Goods on behalf of bluegfx and to store such Goods in appropriate conditions, and not to destroy, deface or remove any notices or marks on the Goods (or its packaging), and to keep the Goods insured for the full price payable for such Goods.

9.5 The Customer undertakes not to offer for sale to any party any Goods supplied under an Order to bluegfx until bluegfx has received payment in full and cleared funds.

9.6 At any time after the date on which payment has become due for any Order under these Terms, bluegfx reserves the right to discontinue any additional Services, or to withhold delivery of any additional Goods ordered by the Customer from bluegfx, until such payment is received.

9.7 The Customer acknowledges that any debt due to bluegfx from the Customer will not automatically be extinguished as a result or consequence of any action undertaken by bluegfx or its agents or representatives in connection with or to obtain any right due to bluegfx for the retention of its property or suspension or discontinuance of a Service.

10. Intellectual Property

10.1 The Customer acknowledges that any Intellectual Property Rights in or to the Goods/Services shall belong to either the relevant Third Party Provider, or bluegfx, in respect of the relevant Goods/Services ordered by the Customer. Provisions relating to the protection of Third Party Provider Intellectual Property Rights and the licence to use any relevant Third Party Provider Goods will be as set out in the relevant Third Party Provider's End User Agreement.

10.2 The Customer undertakes not to make any copies of software or other electronic or hard copy information, or any other materials protected by Intellectual Property Rights supplied by bluegfx, except where the Customer has received and retains the express written permission of bluegfx or the relevant Third Party Provider licensor or manufacturer to make or have made any such copy of any item supplied by bluegfx, or otherwise in accordance with the applicable End User Agreement, or as permitted by law.

10.3 Where the Customer or any other party acting on behalf of the Customer makes an unauthorised copy of any materials protected by Intellectual Property Rights provided by bluegfx (on its own behalf or on behalf of another Third Party Provider), the Customer undertakes to make the same payment for such copy as for a delivery or other supply under an Order placed on these Terms and at the current price for the Goods of bluegfx as at the time of discovery of the copy.

11. Limitation of Liability

11.1 The following provisions set out the entire financial liability of bluegfx (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

- (a) any breach of the contract between the parties under these Terms, howsoever arising; and
- (b) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising out of or in connection with the contract between the parties under these Terms.

11.2 All warranties, conditions and other terms implied by statute or common law are excluded from the contract between the parties to the fullest extent permitted by law.

11.3 Nothing in these Terms excludes or limits the liability of bluegfx for:
(a) death or personal injury caused by bluegfx's negligence; or
(b) fraud or fraudulent misrepresentation.

11.4 Subject to clause 11.2 and 11.3:

(a) bluegfx shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for: (i) loss of profits; or (ii) loss of business; or (iii) depletion of goodwill or similar losses; or (iv) loss of anticipated savings; or (v) loss of goods; or (vi) loss of contract; or (vii) loss of use; or (viii) loss or corruption of data or information; or (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

(b) bluegfx's total liability in contract, tort (including without limitation negligence and breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of a relevant Order shall be limited to the price of the Goods in question under that relevant Order, or in respect of Services under an Order, to the price for the Services under that relevant Order in the 12 months prior to the date of such liability being incurred, and with respect to Bronze Support Services where such services are provided free of charge, to GBP300.

11.5 The Customer shall indemnify and keep indemnified bluegfx against all losses, damages, costs, claims, demands, liabilities and expenses (including without limitation consequential losses, loss of profit and loss of reputation, and all interest, penalties and legal and other professional costs and expenses) awarded against or incurred by bluegfx in connection with, or paid or agreed to be paid by bluegfx in settlement of, any claim for infringement of any third party Intellectual Property Rights (whether from a Third Party Provider or otherwise) which results from the Customer's breach of these Terms.

12. Data Protection Act 1998 (the "Act")

12.1 Bluegfx undertakes to:

- (i) process any personal data (as that term is defined in the Act) relating to the Customer in accordance with the Act and the reasonable instructions of the Customer; and
- (ii) not make any use of personal data relating to the Customer except as required under these Terms or in accordance with the instructions of the Customer.

12.2 Where bluegfx acts as a Data Processor for the Customer (as that term is defined in the Act), the Customer will comply with all its obligations as Data Controller under the Act.

13. Bribery

Both parties acknowledge that it is of the utmost importance that both parties perform their respective obligations under these Terms in accordance with all applicable laws including (without limitation) anti-corruption measures under the UK Bribery Act 2010 ("**Anti-Corruption Laws**"). Both parties represent, warrant and undertake that:

- (a) it shall comply with all applicable Anti-Corruption Laws;
- (b) no officer, employee, agent or shareholder of that party is a government or foreign public official (together "Government Official") and no Government Official has or will have any legal, financial or beneficial interest under the Terms or the payments made by the Customer hereunder;
- (c) no Government Official shall become an officer or employee of that party and/or any of its permitted subcontractors nor shall any Government Official acquire a direct or indirect interest in that party and/or any of its permitted subcontractors without the prior written consent of the other party;
- (d) it will not use any subcontractors in connection with these Terms without having in place appropriate checks and procedures to ensure compliance with Anti-Corruption Laws; and
- (e) it shall promptly inform the other party if it becomes aware of any improper payment to a Government Official in connection with these Terms or if it otherwise breaches any of the provisions of this clause.

14 Termination

14.1 Without prejudice to any other right or remedy available to either party under these Terms and subject to Clause 14.2, either party may terminate the contract between the parties governed by these Terms or suspend any further deliveries of Goods or provision of the Services under the contract between the parties without liability to the other and, if:

- (a) the other party materially breaches the Terms of the contract between the parties and such material breach is not remedied within 30 days of the date of receipt of written notice of such material breach;

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(b) the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors, or a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party, or an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the other party, or a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party.

14.2 If the Customer has agreed to receive Gold Support Services from bluegfx, then those Gold Support Services shall only be terminated in accordance with clauses 14.1 (a) and 14.1 (b) or in accordance with the termination provisions specific to the Gold Support Services.

14.3 Any provision of these Terms that expressly or by implication is intended to come into or continue in force on or after termination of the contract between the parties that is subject to these Terms, shall remain in full force and effect.

14.4 Termination of this contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the contract which existed at or before the date of termination or expiry.

15. Force Majeure

Bluegfx reserves the right to defer the date of delivery, or to cancel a contract for delivery of Goods/Services as set out in an applicable Order, or reduce the amount of Goods/Services Ordered, if it is prevented from or delayed in carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including without limitation strikes, lock-outs or other industrial disputes (whether involving the workforce of bluegfx or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors (Force Majeure Event).

16. General

16.1 No failure or delay by a party to exercise any right or remedy provided under this contract or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

16.2 If any provision or part-provision of this contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this contract. If any provision or part-provision of this contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

16.3 These Terms constitutes the entire contract between the parties and supersedes and extinguishes all previous contracts, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party acknowledges that in entering into this contract it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this contract. Nothing in this clause shall limit or exclude any liability for fraud.

16.4 The Customer shall not, without the prior written consent of bluegfx, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the contract.

16.5 Bluegfx 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 the contract.

16.6 No one other than a party to this contract shall have any right to enforce any of its terms.

16.7 The contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including without limitation disputes or claims) are governed by and construed in accordance with the law of England and Wales.

16.8 Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this contract or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE

SUPPORT SERVICES TERMS

1. The capitalised terms in this Schedule shall have the meaning given to them in addition to the definitions set out in the Terms:
 - “**Email Support**” means email query and initial response;
 - “**Hardware and Software Support Services**” means the provision of Support Services to the Customer by bluegfx in respect of the Supported Equipment, as set out in this Schedule and as may be further detailed in a Report;
 - “**Health Check**” means an initial review of the Customer's existing equipment, and thereafter monthly reviews of the Customer's Supported Equipment, by remote dial-in, which reviews may result in bluegfx making recommendations, including for fixes;
 - “**Nominated Person**” means the person nominated by the Customer to communicate PM Visit requirements to bluegfx;
 - “**Office Hours**” means 9am to 5pm, Monday to Friday excluding English bank holidays;
 - “**On-site Visit**” means prearranged and scheduled visits to the Premises during which bluegfx shall perform preventative maintenance on Supported Equipment and address all other issues and problems as notified to bluegfx by the Nominated Person prior to the scheduled visit;
 - “**Report**” means the report produced by bluegfx as part of the Gold Support Services set out in clause 2 of this Schedule.
 - “**Support Hours**” means a quantum of hours of Telephone Support and remote dial-in support purchased by the Customer or remaining unused as the case may be;
 - “**Support Services Report**” means a summary of any current support tickets and their status, being raised, open or resolved, emailed weekly;
 - “**Support Term**” means the term of the agreement between the Customer and bluegfx for the provision of Gold Support Services, being 12 months from the commencement of the services; and
 - “**Telephone Support**” means a helpdesk telephone support line.
 2. **PROVISION OF SUPPORT SERVICES**
 - 2.1 Without limiting any other provisions of these Terms, the Customer acknowledges that the Support Services shall be provided in respect of the network included on the Supported Equipment, together with the interoperability of the software included on the network for the running of the network, as set out in the Report (“**Network**”). In providing the Support Services to the Network, bluegfx supports the Network itself, but does not provide, and shall not be responsible in any way for, any support or maintenance services in connection with the applications or software programmes operated within the Network by the Customer. The Customer shall be required to ensure that it has appropriate support and maintenance arrangements in place with each provider of the software applications or programmes contained within the Network directly with the each provider of the relevant software applications or programmes.
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- 2.2 Prior to commencement of the Support Services, bluegfx shall undertake a review of the Customer's equipment that it requires the Support Services to be provided for, as part of its audit in order to produce an asset list to form the Report. The equipment included in the Report will be Supported Equipment bluegfx will provide the Support Services for, in accordance with this Schedule and the details contained within the Report.
 - 2.3 During the Support Term, bluegfx shall provide the following Hardware and Software Support Services to the Customer in respect of the Supported Equipment:
 - 2.3.1 Such number of full working days (if any) of On-site Visits, being a full day onsite at the Customer's Premises specified in an accepted Order;
 - 2.3.2 unlimited Email Support during Office Hours;
 - 2.3.3 unlimited Telephone Support during Office Hours;
 - 2.3.4 4 Hours response time within Office Hours;
 - 2.3.5 monthly Health Check on Supported Equipment; and
 - 2.3.6 weekly Support Services Report.
 - 2.4 The Customer will be provided with a telephone number and an email address to log support issues. These shall be the only means of logging support issues with bluegfx.
 - 2.5 Where possible, bluegfx shall provide remote diagnosis via VPN access, as agreed between the parties, for bluegfx to initially diagnose, and where possible, fix problems that may occur in respect of the Supported Equipment at the Premises.
 - 2.6 Where a technical fault is logged by the Customer on Supported Equipment which requires an engineer to attend the Customer's Premises, the Customer shall receive the highest level of priority and bluegfx shall use reasonable endeavours to arrive at the Premises one full Business Day from receipt of notification of technical issue, and no more than two Business Days.
 - 2.7 The fees payable by the Customer to bluegfx for the provision of the Support Services shall be set out in the Report agreed by the Customer. Such fees are payable quarterly in advance and without limiting

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any other right it may have, bluegfx reserves the right to suspend the provision of Support Services during any period of non—payment.

- 2.8 On-site Visits not used by the Customer during a current Support Term cannot be carried forward into any subsequent Support Term.
- 2.9 The Support Term shall automatically renew for further periods of 12 months if a party does not give notice to the other of its intention to terminate the provision or reception of Support Services at least 3 months prior to the then current Support Term.

Silver Support Services

- 2.10 For so long as the Customer has paid the charges for the Silver Services, bluegfx shall provide the following Hardware and Software Support Services to the Customer in respect of the Supported Equipment:
 - 2.10.1 unlimited Email Support during Office Hours
 - 2.10.2 Telephone Support during Office Hours;
 - 2.10.3 4 Hours response time within Office Hours;
- 2.11 Where possible, bluegfx shall provide remote diagnosis via VPN access, as agreed between the parties, for bluegfx to initially diagnose, and where possible, fix problems that may occur in respect of the Supported Equipment at the Premises.
- 2.12 To receive Telephone Support and remote support via VPN access, the Customer must have sufficient Support Hours, which can be purchased by the Customer in blocks of 4 hours at the rates advised by bluegfx at the time of purchase. Support Hours must be used within 12 months of their purchase, otherwise they will be void. bluegfx will use reasonable endeavours to advise the Customer when it has less than 1 hour of Telephone Support remaining in order that the Customer can purchase additional Support Hours.

Bronze Support Services

- 2.13 For so long as the Supported Equipment is operated by the Customer and these Terms are in effect, bluegfx shall provide the following Hardware and Software Support Services to the Customer in respect of the Supported Equipment:
 - 2.13.1 Email Support during Office Hours; and
 - 2.13.2 8 Hours (next business day) response time.
- 2.14 A Customer receiving Bronze Support Services can with the agreement of bluegfx upgrade to receive Silver Support Services by purchasing Support Hours.

3. REMOTE CONNECTION ASSISTANCE

- 3.1 For Customer's receiving Gold Support Services or Silver Support Services, subject to the terms of support related to the category of Support Services, bluegfx agrees to provide remote connection assistance to the Customer subject to the following conditions:
 - 3.1.1 Where the issue is hardware related, bluegfx will attempt to diagnose the cause of the issue. bluegfx will then advise the Customer of the appropriate procedures regarding on-site hardware maintenance through the relevant third party companies. At this stage bluegfx's responsibilities are at an end.
 - 3.1.2 If the issue is hardware configuration bluegfx will diagnose the problem and attempt a resolution. However, where resolution requires the assistance of a manufacturer or other third party bluegfx cannot guarantee a satisfactory resolution of the issue.
 - 3.1.3 Where the issue relates to the installation of new software, bluegfx will assist the Customer with the installation and with the related configuration issues. However, bluegfx is not liable for the results of actions the Customer takes during the installation and configuration that deviates from the manufacturer's instructions.

If a problem is not rectifiable in a reasonable time period, bluegfx reserves the right to arrange a chargeable site visit in order to remedy the fault.

4. REQUIREMENTS FOR PROVISION OF HARDWARE AND SOFTWARE SUPPORT SERVICES

- 4.1 The Customer must have an Antivirus/Antimalware solution ("**solution**") in place on all workstations supported (as part of the Supported Equipment) by bluegfx. The solutions must have a valid license (free for commercial use, or on commercial terms), which must remain up-to-date during the term of these Terms. bluegfx will not provide Support Services to any equipment or hardware without this solution. If the Customer requires a solution, bluegfx can supply the solution at additional cost, under its standard terms and conditions.
- 4.2 bluegfx will not support unsecured workstations. All workstations supported under these Terms must be secured by a minimum complexity password, whether local or enforced by Domain Server rules.
- 4.3 The Customer is recommended to have a Windows Update Service in place in order to keep all Microsoft software up to date.
- 4.4 bluegfx will not support unlicensed installed software on any hardware. bluegfx will not support any hardware found to have unlicensed software installed on it. bluegfx will immediately inform the Customer if such hardware/software is found.

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- 4.5 The Customer agrees that bluegfx is not liable for damage caused to the Customer's computer components as a result of improper installation or other hardware configuration caused by the Customer, or another third party appointed by the Customer.
- 4.6 The Customer is strongly advised to keep backups and it is agreed that bluegfx is not liable for data lost as a result of the Customer's actions or omissions relating to this, or the Customer's failure to follow any of bluegfx's advice provided from time to time.
- 4.7 The Customer will be liable for any additional time spent at the Customer's site where such additional time is outside the scope of the original anticipated time for providing Support Services as detailed in the Report, in accordance with bluegfx's standard rates, from time to time in force.
- 4.8 It is recommended that the Customer considers and follows advice given by bluegfx following a site visit in relation to the operation and improvement of the Customer's computer systems. However, bluegfx shall not be liable for any subsequent problems caused which are attributable to the non-implementation of these actions, and/or the Customer's other acts or omissions.
- 4.9 The Customer will be charged for all parts or other materials or equipment used by bluegfx in the implementation or provision of the Support Services, where such parts, materials or equipment are to vest with the Customer and do not constitute bluegfx's own parts, materials or equipment which it may use in the provision of the Support Services.
- 4.10 bluegfx insists on the correct implementation of legal software and licences. bluegfx will not install or support illegal programmes, nor be held responsible in any way for any issues pertaining to the illegal use of applications. It is the Customer's responsibility to read, understand and abide by any conditions of use of End User Licence Agreements.
- 4.11 The Customer shall ensure during the Term that all Equipment is covered by or that bluegfx advises the Customer as part of the Support Services about standard manufacturers warranties that may apply to that Equipment, onsite or otherwise. These Terms shall not constitute a covenant by bluegfx to fix or replace unsupported hardware or Equipment which is outside of its warranty conditions. bluegfx shall not be liable if the Customer suffers any loss where Equipment is outside the manufacturer's warranty. However, bluegfx will include recommendations and shall liaise with manufacturer's as may be required as part of the Support Services provided in accordance with these Terms. For the avoidance of doubt, manufacturers will be responsible to the Customer under their warranties and/or terms and conditions of sale in respect of such Equipment.