



PRIMARYTECH

TERMS & CONDITIONS

IT As A SERVICE - EDUCATION CUSTOMERS

EFFECTIVE DATE

January 2020

SUPPLIER

- (1) **PRIMARY TECHNOLOGIES LIMITED** is incorporated and registered in England and Wales, with company number 04760864. Its registered office is Suite 1204, K2 Tower, 60 Bond Street, HU1 3EN (**Supplier**).

AGREED TERMS

1. Interpretation

The definitions and rules of interpretation in this clause apply.

1.1 Definitions:

Acceptable Use Policy: means an acceptable use policy prepared per good industry practice (i.e., being a policy suitable for the provision of a Network to the sorts of users envisaged to use the Network and suitably and adequately addressing all of the risks and issues typically addressed by such a policy);

Access Codes: any access number, password or code that may be allocated from time to time to the Customer, its employees, authorised agents or subcontractors or any other nominated person by the Supplier to allow the customer its employees, authorised agents, sub-contractors or other nominated person to have access to the system.

Agreement: The ITaaS terms and conditions document.

Commencement Date: the date the terms become effective as per the date of the quote or otherwise stated on the quote.

Contractual Term: the initial period shall be not less than 36 months from the Commencement Date.

Customer Contacts: the customer's principal contacts for the Service

Deliverables: all products and materials developed/installed by the Supplier to the System and Services in any media, including, without limitation, computer programs, group policies, scripts, data, diagrams, remote management software, reports and specifications (including drafts).

Equipment: the items of hardware used by the Customer.

Fair Usage: is the reasonable hours available to the Customer specified in Schedule 2.

Intellectual Property Rights: meaning patents, rights to inventions, copyright and related rights, trademarks, trade names, domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including without limitation 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.

IT as A Service (ITaaS): IT As A Service combines Hardware, Software and Services into a monthly, quarterly or annual subscription fee.

Location: the place or places where the System is installed.

Minimum Commitment: The agreed monthly, quarterly, and annual as per the Customer's order.

Network Infrastructure: the modems, routers, firewalls, switches, circuits and other telecommunications hardware and software or as may be modified, added to or replaced during the Contractual Term.

Normal Service Hours: the service hours specified in Schedule 1.

Operating Systems: the primary computer program necessary to run a technology system.

Pooled Storage: The total sum of available storage available to the Customer.

Procurement Service: The supplier brokers the sale between the Customer and a third-party supplier.

Product: Hardware or Software the Customer utilises as part of the ITaaS solution.

Quote/Quotation: Proposal or formal price from the Supplier to the Customer.

Services: the Services provided by the Supplier specified in Schedule 1.

Service Charge: The Charge for the Services.

Service Term: The period between the Commencement Date and the last day of service.

Software Programs: the software programs installed on the customers' operating systems, including all documentation relating to them and any modifications, enhancements, adaptations, or other alterations that may be made to such programs.

Supplier Notification Procedure: The supplier website provides methods to access support, including telephone, customer portal, and live chat support.

System: The hardware and software supported as a part of the Supplier's Services.

Third-Party Agreements: any external agreement between the Customer and a third party regarding information technology, communications or any other applicable technology such as internet supply and printer supply.

Third-Party Licensed Programs/Third-Party Software: the software programs licensed to the Customer, including all documentation relating to it and any modifications, enhancements, adaptations or other alterations that may be made to such programs.

Working Day: as outlined in Schedule 1.

VAT: value-added tax chargeable under English law for the time being, as well as any similar additional tax.

- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of the terms and conditions.
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other corporate body, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural, include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other.
- 1.7 A reference to a statute or statutory provision refers to it as amended, extended or re-enacted occasionally.
- 1.8 A reference to **writing** or **writing** includes faxes and emails.
- 1.9 References to clauses and Schedules are to the clauses of and Schedules to these terms and conditions, and references to paragraphs are to paragraphs of the relevant Schedule. The Schedules form part of the terms.
- 1.10 The terms and conditions shall be deemed to have commenced on the **Commencement Date**.

2. APPLICATION OF CONDITIONS

- 2.1 These conditions shall:
 - (a) Apply to and be incorporated in the terms and conditions.
 - (b) Prevail over any inconsistent terms or conditions contained in, or referred to in, the Customer's purchase order, confirmation of order, specification, or implied by law, trade custom, practice or course of dealing.
 - (c) If you do not wish to be bound by these Conditions, the Customer should not order or accept the performance of the Services.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of these terms and conditions shall be binding on the Supplier unless in writing and signed by the Supplier's Contact or by a duly authorised representative of the Supplier.
- 2.3 Specific Service or Product terms and conditions shall apply as listed in Schedule 1.

3. EFFECT OF PURCHASE ORDER

- 3.1 The Customer's purchase order or signed order sent to the Supplier constitutes an offer by the Customer to purchase the Supplier's services.

3.2 The acknowledgement copy of the purchase order form by the Supplier, or the Supplier's commencement of work in providing Services or execution of work under the purchase order, shall establish a contract for the supply of those Services and, accordingly, the purchase of the same, by the Customer.

3.3 The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in their purchase order shall NOT govern the Suppliers.

3.4 The Suppliers Quote will outline the Services purchased by the Customer.

4. SUPPLIER'S OBLIGATIONS

4.1 The Supplier shall use reasonable endeavours to provide the Services specified in the Customer's quote.

4.2 The Supplier shall use reasonable endeavours to meet the performance levels and any performance dates (if applicable) or subsequently agreed upon. Still, any such requirements or dates shall be estimated only, and time shall not be of the essence regarding such dates.

4.3 The Supplier shall appoint the Supplier's Contact, who shall have the authority to contractually bind the Supplier on all matters relating to the Service. The Supplier shall use reasonable endeavours to ensure that the same person acts as the Supplier's Contact throughout the but may replace them, occasionally, where reasonably necessary, in the interests of the Supplier's business.

4.4 The Supplier shall ensure that the Services are performed with reasonable care and skill by persons possessing suitable and appropriate skills and experience.

4.5 The Supplier shall have no obligation to perform any service not expressly agreed upon.

5. CUSTOMER'S OBLIGATIONS

5.1 The Customer shall:

- (a) Provide the Supplier with full and sole access to all matters relating to the Services;
- (b) cooperate with the Supplier in all matters relating to the Services and appoint the Customer's Contacts, who shall have the authority to bind the Customer on the issues relating to the Services contractually;
- (c) provide promptly such access to the Customer's premises and data, and such office accommodation and other facilities, as is requested by the Supplier;
- (d) provide promptly such information as the Supplier may request, and ensure that such information is accurate in all material respects; and
- (e) be responsible (at its own cost) for preparing the relevant premises for the supply of the Services;
- (f) notify the Supplier promptly when considering or entering into any new or amended Third Party Agreements;
- (g) provide the Supplier with remote access. All internet costs shall be entirely the responsibility of the Customer.
- (h) Make prompt payment for the Services provided by the Supplier by 30 days after the invoice date.
- (i) Pay for any additional services requested and provided by the Supplier.
- (j) The customer contract authority will meet with the supplier in person or via video call at least three times annually.
- (k) Implement the supplier's recommendations to meet the customer's obligations in condition 5.6. The customer shall implement the supplier's recommendations within twenty-one (21) of notification from the Supplier.
- (l) Ensure that the customer is contactable during the Supplier's Normal Working Hours.

5.2 If the Supplier's performance of its obligations is prevented or delayed by any act or omission by the Customer, the Customer's agents, the customers sub-contractors or employees, the Customer shall in all circumstances be liable to pay the Supplier all reasonable costs, charges incurred or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit, loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere). The Supplier will confirm all such costs, charges, and losses with the Customer in writing.

- 5.3 The Customer shall not, without the prior written consent of the Supplier, at any time either during the Contractual Term or after the termination of the Service, solicit or entice away from the Supplier any person associated with the Supplier or employ or attempt to employ any person who is, or has been, engaged as an employee or subcontractor of the Supplier.
- 5.4 Any consent given by the Supplier per condition 5.3 shall be subject to the Customer paying a sum of money to the Supplier. The sum shall be equivalent to 100% of the then-current annual remuneration of the Supplier's employee or subcontractor or, if a higher remuneration is offered, 100% of the higher annual remuneration to be paid by the Customer to the Supplier.
- 5.5 The Customer shall inform the Supplier immediately in writing of any change in the identity of the Customer's Contacts at any time during the Service Term. The Supplier shall not be liable for any default element if the Customer fails to update the Supplier, in writing, of any change in the Customer's Contacts.
- 5.6 Until Services are terminated, the Customer shall:

Acceptable Use Policy

- (a) Implement and enforce an Acceptable Use Policy for all systems related to the Supplier's services. The Customer shall indemnify the Supplier for all loss, costs, and expenses (including reasonable legal fees) arising out of or in connection with any failure by the Customer or its users to comply with the Acceptable Use Policy.

Hardware maintenance

- (b) procure and continuously maintain a suitable maintenance/warranty agreement in respect of the hardware systems relating to Services delivered by the Supplier with the relevant manufacturer, supplier or suitable reputable third party;
- (c) ensure all hardware meets the requirements for the installed operating systems and third-party software programs.
- (d) Ensure all hardware is in complete working condition.

Operation of the System

- (e) ensure that proper environmental conditions are maintained in respect of the System and maintain in good condition the accommodation of the System and the electricity connection/supply to it;
- (f) not make any modification to the System in any way without the Supplier's prior consent;
- (g) not use in conjunction with the System, any accessory attachments or additional equipment other than that which has received prior approval by the Supplier;

Third-Party Licensed Programs

Software licences

- (h) procure from the Supplier adequate licences entitling the Customer to use the Third Party Licensed Programs and ensure that the provision by the Supplier of the Services (or any other services provided by the Supplier at the request of the Customer) shall not breach any of the terms or conditions of any such licences to include Microsoft, Google and Apple purchasing agreements;
- (i) grant the Supplier a non-exclusive licence to use any of the Customer's programs or licences to enable the Supplier to provide the Services.

System Backup

- (j) procure adequate system backup software from the Supplier.

Anti-Virus

- (k) procure adequate anti-virus software from the Supplier.

MDM

- (l) procure adequate MDM software from the Supplier.

Operating Systems

- (m) Ensure all software operating systems have valid life cycle support and updates from the relevant software vendor, including but not limited to Microsoft, Google and Apple.

Core Applications

- (n) Ensure all software client systems have valid life cycle support and updates from the relevant software vendor, including, but not limited to, Microsoft Office, Google, and Apple.

Reporting problems

- (o) make all reasonable attempts and take all reasonable steps necessary to solve minor issues (including paper jams, ink changes, loose cables) before taking any steps to contact the Supplier with a request for assistance;
- (p) save as aforesaid, not attempt to adjust, repair or maintain the System and nor request permit or authorise anyone other than the Supplier to carry out any adjustments, repairs or maintenance of the System without the Supplier's prior consent;
- (q) promptly notify the Supplier if the Services are required or the System is not operating correctly;
- (r) Individual users are to report all problems directly to the supplier and provide all direct contact information, including email and direct telephone numbers, for the contact reporting the problem.
- (s) The customer is to promptly respond to all correspondence from the supplier relating to the problem above.

Cooperation with the Supplier's employees

- (t) provide the Supplier and subcontractors with full and safe access to the Location and the System providing said agents and subcontractors are suitably checked and authorised to work at the Location;
- (u) provide adequate working space at the Location for use by the Supplier, its employees, agents and subcontractors;
- (v) ensure that, in the interests of health and safety, the Supplier, its employees, agents, and subcontractors are present at the Location.
- (w) Make available to the Supplier such programs, operating manuals and information as may be necessary to enable the Supplier to perform its Service obligations and shall, if requested by the Supplier, provide staff familiar with the System (such staff to cooperate fully with the Supplier as may be necessary) to enable the Supplier to perform its obligations.
- (x) at all times during the Contractual Term, keep a contemporaneous record of error messages in a form approved by the Supplier and allow the Supplier to inspect the record at all reasonable times;
- (y) provide such telecommunication facilities as are reasonably required by the Supplier to enable the Supplier to perform its obligations.
- (z) Without prejudice to any of the above commitments to provide such cooperation as the supplier shall reasonably require to enable it to perform its obligations.

Spare parts

- (aa) The Customer shall purchase spare parts, spare end-user equipment and consumable items.
- (bb) The Supplier shall not be liable for any delay in performing its obligations if spare parts, spare devices or consumable items are unavailable (otherwise due to the Supplier's fault).

6. FAIR USAGE

6.1 The Customer has unlimited usage of the Service; however, if the number of support calls is significantly greater than the Fair Usage set out in Schedule 2, the supplier is entitled to;

- (a) Arrange a price discussion with the Customer.
- (b) Limit Service Usage.
- (c) Issue additional charges set out in condition 9.

6.2 If, in the Supplier's opinion, the overly fair usage of service relates to a lack of training, the Supplier will bring this to the Customer's attention, and the Customer must address any training issues without Delay.

7. CHANGE CONTROL

- 7.1 The Customer's Contacts and the Supplier's Contact shall meet as outlined in condition 5.1 (j) and necessary by the Supplier to discuss matters relating to the Services. If either party wishes to change the scope of the Services, it shall submit details of the requested change to the other in writing.
- 7.2 If either party requests a change to the scope or execution of the Services or any part of the service or the schedules annexed to it, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
 - (b) any variations to the Supplier's charges/Service Charge arising from the change;
 - (c) the likely effect of the change on the Services and
 - (d) any other impact of the change on the terms.
- 7.3 If the Customer requests that the Supplier repair, advise, or in any way deal with any systems or software relating to Third Party Agreements, Strategic changes or items not directly procured through the Supplier, the Supplier is entitled to:
- (a) refuse to undertake such work;
 - (b) refer it directly to the relevant third party;
 - (c) Charge the Customer additional fees for undertaking the work not covered by the Service, as set out in Schedule 2, or under these terms.
 - (d) Charge for any remedial works, as set out in Schedule 2 or under these terms.
- 7.4 If the Supplier requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent.
- 7.5 If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges, the Services, and any other relevant terms of this agreement to account for the change.
- 7.6 The Supplier shall be entitled to charge the Customer for the additional work undertaken to remedy the issue in addition to the Service Charge.

8. STRATEGIC CHANGE

- 8.1 The Customer must notify the Supplier before any strategic changes to any systems relating to the Supplier's Services. The Supplier considers strategic changes to be changes that significantly alter the Supplier delivery of Services, such as:
- (a) Changes to the topology and infrastructure of the network
 - (b) Change of third-party agreements affecting the delivery of the Supplier Services.

9. CHARGES AND PAYMENT

- 9.1 Where the additional services are provided:
- (a) The charges payable for the Services shall be calculated by the hourly charges as listed in Schedule 2, as amended from time to time;
 - (b) Charges payable for the Services are subject to a 12-month review by the Supplier, with the latest charges listed in the newest version of the terms and conditions document.
 - (c) The Supplier's standard daily fee rates are calculated based on an eight-hour day worked between 8.00 am and 5.00 pm on weekdays (excluding weekends and public holidays);
 - (d) The Supplier shall be entitled to charge an overtime rate of an additional 50% of the standard rate for part days and for time worked by team members outside Normal Service Hours.
 - (e) The Supplier shall ensure that all team members complete timesheets recording time spent on the Services and using such time sheets to calculate the charges.

- (f) The Supplier shall invoice the Customer in advance for its charges for time, expenses and materials (together with VAT where appropriate) as outlined in Schedule 2.
- 9.2 Where the Services are provided for a fixed price, the total cost shall be on the relevant customer quote and shall be paid periodically in advance. The Customer shall pay all amounts due under this agreement to the Supplier in full without any set-off, counterclaim, deduction, or withholding (other than any deduction or withholding of tax as required by law).
- 9.3 Any fixed price excludes, at the discretion of the Supplier:
- (a) The cost of hotel, subsistence, travelling and any other ancillary expenses reasonably incurred by the team in connection with the Services, and the cost of any materials or services reasonably and appropriately provided by third parties required by the Supplier for the supply of the Services. Such expenses, materials and third-party services shall be invoiced by the Supplier at cost and
 - (b) VAT, which the Supplier shall add to its invoices at the appropriate rate.
- 9.4 Unless otherwise agreed, the Customer shall pay all invoices via the Supplier's direct debit system. Each invoice submitted by the Supplier must be paid in full and in cleared funds within 30 days of receipt.
- 9.5 Without prejudice to any other right or remedy that the Supplier may have, if the Customer fails to pay the Supplier on the due date, the Supplier may:
- (a) charge interest on such sums due from the due date for payment at the annual rate of 8% above the Bank of England base rate, accruing daily and being compounded quarterly until payment is made, whether before or after any judgment; and
 - (b) suspend all Services until payment has been made in full.
 - (c) Immediately invoice for all services payable to the Supplier under the agreement.
- 9.6 Time for payment by the Customer shall be of the essence.
- 9.7 All payments payable to the Supplier under the agreement shall become due immediately on termination of the agreement, despite any other provision. This condition is without prejudice to any right to claim for interest under the law or any such right under the agreement.
- 9.8 The Supplier may, without prejudice to any other rights it may have, set off any liability of the Customer to the Supplier against any liability of the Supplier to the Customer.
- 9.9 The Supplier reserves the right to increase any additional charges other than the fees for the Services at any time.
- 9.10 The Supplier has the right, each contract year, to increase the price for the Services on 30 days prior written notice to the Customer, by the higher of:
- (a) the annual UK RPI-X increase
 - (b) the annual UK Consumer Price Index increase
 - (c) 3%.
- Where applicable and on 30 days prior written notice to the Customer.
- 9.11 It shall be the sole responsibility of the Customer to monitor and manage their usage of the Service at all times.
- 9.12 Where payment for Services is made by a third party, such as a holding company, group company, or procurement framework, the Customer shall remain responsible for the terms relating to payments and charges.

10. PRICE ADJUSTMENT CLAUSE

- 10.1 At any time during the contractual term, the Supplier reserves the right to adjust the price of the goods and/or services provided to the Customer. Such adjustments shall be directly correlated to an increase in the Supplier's costs, including but not limited to raw materials, labour, transportation, regulatory changes, or other operational expenses that impact the cost of supplying the goods and services.

- 10.2 In the event of any price adjustment, the Supplier shall provide the Customer with written notice at least 15 days before implementing the new prices.
- 10.3 Any increase in the Customer's cost shall be limited to the actual increase in the Supplier's cost of providing the goods and/or services.
- 10.4 Should the agreement enter a 12-month rolling period, due to the loss of a 3-year discount, an increased charge of 25% will apply to the following services for the initial and each subsequent 12-month period;
- (a) All Products and Services listed in condition 34.3 (a).

11. MAINTENANCE AND CHANGES TO THE PRODUCT

- 11.1 The Supplier reserves the right to change the Products or Product descriptions included in the IT as a Service solution Schedule 1 without notice.
- 11.2 The Supplier may, from time to time, suspend the availability of any Product without being required to give notice of the same to perform maintenance or other updating work.
- 11.3 The Supplier shall not be liable for any unavailability of any Product during any such period.

12. DURATION

- 12.1 This agreement shall commence on the Commencement Date. It shall last for a minimum term of 36 months and subsequent 12-month periods (on a rolling basis) until a termination notice is served (subject to the other provisions for termination set out in this agreement).
- 12.2 Specific Product terms may apply as per Schedule 1.

13. INTELLECTUAL PROPERTY RIGHTS

- 13.1 The Supplier shall own all Intellectual Property Rights and all other rights. The Supplier currently licenses all such rights to the Customer free of charge and on a non-exclusive, worldwide basis to the extent necessary to enable the Customer to make reasonable use of the Services as envisaged by the parties. If the Supplier terminates the agreement under condition 19.1, this licence will automatically terminate, and the Customer must return all Intellectual Property Rights to the Supplier immediately.
- 13.2 The Customer acknowledges that the Customer's use of rights in Pre-existing Materials is conditional on the Supplier obtaining a written end-user licence (or sub-licence) of such rights from the relevant licensor or licensors on such terms as will entitle the Supplier to license such rights to the Customer.
- 13.3 In the event of a termination, the Customer will cooperate fully with the Supplier to enable the immediate removal and retention (by the Supplier) of all Intellectual Property Rights from the System/Equipment at the Location.

14. CONFIDENTIALITY AND SUPPLIER'S PROPERTY

- 14.1 The Customer shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are confidential and have been disclosed to the Customer by the Supplier or its agents, and any other confidential information concerning the Supplier's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or subcontractors as need to know it to discharge the Customer's obligations to the Supplier and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 14.2 All materials, system configurations, training materials, deliverables, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer shall always be and remain the exclusive property of the Supplier. Still, they shall be held by the Customer in safe custody at its own risk and maintained and kept in reasonable condition by the Customer until returned to the Supplier. They shall not be disposed of or used other than by the Supplier's written instructions or authorisation.

15. INDEMNITY

- 15.1 The Supplier shall indemnify the Customer against any claim by any other person that the provision of the Services to the Customer per this Agreement infringes that other person's intellectual property rights.

16. LIMITATION OF LIABILITY

- 16.1 The following provisions set out the entire financial and professional liability of the Supplier (including without limitation any liability for the acts or omissions of its employees, agents and subcontractors) to the Customer in respect of:
- (a) any breach of the agreement, howsoever arising;
 - (b) any use made by the Customer of the Services, the Deliverables or any part of them; and
 - (c) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with the agreement;
 - (d) any failure by the Customer to use the software as recommended by the Supplier;
 - (e) any failure by the Customer to provide its users with the relevant training to use the systems.
- 16.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the agreement.
- 16.3 Nothing in these conditions excludes the liability of the Supplier:
- (a) For death or personal injury caused by the Supplier's negligence or
 - (b) For fraud or fraudulent misrepresentation.
- 16.4 Subject to condition 16.2 and condition 16.3:
- (a) The Supplier 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;
 - (ii) loss of business;
 - (iii) depletion of goodwill or similar losses;
 - (iv) loss of anticipated savings;
 - (v) loss of goods;
 - (vi) loss of contract(s);
 - (vii) loss of use;
 - (viii) loss or corruption of data or information;
 - (ix) Service outage;
 - (x) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
 - (b) The Supplier's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price paid for the Services.

17. EXCEPTIONS

- 17.1 The Services do not include any service maintenance or work which are necessitated as a result of any cause other than the proper use of the System in the ordinary course of the Customer's normal business and activities, including without limitation:
- (a) Failure or fluctuation of power supply, air conditioning, humidity control or other environmental conditions;
 - (b) accident transportation, neglect, misuse or default of the Customer, its employees, agents, sub-contractors or any third party;
 - (c) any fault in any attachments or associated equipment which do not form part of the System;
 - (d) act of God, fire, flood, war, act of violence or other similar occurrence;
 - (e) any attempt by anyone other than the Supplier to adjust, repair or maintain the System.
 - (f) Cyber attack or data breach

17.2 The Services do not include:

- (a) Services other than at the Location (save for telephone and remote support);
- (b) Assistance with the relocation of any part of the Customer's ICT Estate
- (c) Supply of hardware, parts or any software;
- (d) Any request for support required as a result of any accident, neglect, alterations, improper use or misuse (including in breach of the Acceptable Use Policy) in whole or part;
- (e) Repair or renewal of any consumables, including cables, tapes, inks, paper or any other consumable supplies;
- (f) Maintenance or support of any administration software including but not exhaustive to SIMS, FMS, Sage or any other MIS and finance software;
- (g) Electrical or other environmental work;
- (h) Repairs or installation of any wired or wireless network infrastructure;
- (i) Backup of any third-party software or databases inclusive but not exhaustive to SIMS, FMS, Sage or any other MIS or finance software;
- (j) Repairs or installation of any audio-visual equipment;
- (k) Shipping costs of return to base warranties;
- (l) Installation, support, maintenance and repair of hardware and software under a Third Party Agreement.
- (m) Maintenance or assistance concerning any Third Party Agreement.
- (n) Remedial works for changes the customer or third party makes without prior agreement.
- (o) Installation of hardware where the technology is not purchased directly through the Supplier.
- (p) Additional CPD and training above and beyond service inclusions.
- (q) Installation, support, maintenance and repair of hardware and software of non-customer-owned technology.
- (r) Project Management
- (s) Remedial works or advice concerning a cyber attack, security breach or data breach.

18. ADMINISTRATOR'S RIGHTS

- 18.1 The Customer shall, on or before the Commencement Date, grant to the Supplier, undertake all necessary acts and steps, and sign all documents required to transfer complete and unrestricted control of access to the System to the Supplier.
- 18.2 Should the Customer not be able to transfer complete and unrestricted control of access to the System to the Supplier due to a dispute or delay from the incumbent supplier, the Supplier reserves the right to charge for additional works relating to the handover of Services.
- 18.3 The Supplier will have sole access to all access codes.
- 18.4 The Supplier reserves the right to alter, change, and update the Access Codes from time to time when the Supplier, at its absolute discretion, thinks it is fit to maintain the security and performance of the System.
- 18.5 If the Customer requests the access codes during the contract term,
- (a) The customer contract authority will make this request via email to customerservices@primarytech.co.uk.
 - (b) The supplier will release the codes at its discretion, and the customer agrees to discharge the supplier's responsibilities as outlined in conditions 4.1, 4.2, 4.3, and 4.4.

19. TERMINATION

- 19.1 Without prejudice to any other rights or remedies to which the parties may be entitled, either party may terminate the agreement without liability to the other if:

- (a) The Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than seven (7) days after being notified in writing to make such payment;
 - (b) the other party commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within twenty-one (21) days after being notified in writing to do so;
 - (c) the other party repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- 19.2 This agreement shall bind the Customer and all successors in title.
- 19.3 The Customer is not permitted to terminate this agreement before the end of the Contractual Term in the event of a change of control, jurisdiction, ownership or conversion to an alternative status without the Supplier's prior written consent. In such circumstances, the Customer agrees to pay the price of the Services and any other associated costs or charges in full for the remaining Contractual Term and any additional charges relating to the handover of services.
- 19.4 Any provision of this agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.
- 19.5 Termination of this agreement shall not affect any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement that existed at or before the date of termination.
- 19.6 This agreement does not automatically terminate at the end of the initial Contractual Term. It continues on a 12-month rolling contract.
- 19.7 If either party wishes to terminate this agreement at the end of the initial Contractual Term:
 - (a) They must serve a notice to terminate to the other party and per clause 30;
 - (b) Ensure the notice to terminate is served before the agreement enters the last six (6) months of the initial Contractual Term or the last three (3) months of the subsequent rolling twelve (12) months.
- 19.8 If the deadline for serving a notice to terminate passes, termination can only occur at the end of the Contractual Term with the written agreement of the other party.
- 19.9 At the end of the Contractual Term, if neither party has served a notice to terminate, this agreement shall continue on a rolling twelve (12) month contract basis until terminated by either party. Per condition 10.4, an additional charge will apply to the 12-month rolling term.
- 20. EFFECT OF TERMINATION**
- 20.1 Any termination of the agreement for any reason shall be without prejudice to any other rights or remedies any party may be entitled to under this agreement and shall not affect any accrued rights or liabilities of either party or the coming into force or the continuance in force of any provision of this agreement which was expressly or by implication intended to come into or continue in force on or after the termination of this agreement.
- 20.2 Unless otherwise requested, termination shall occur at noon on the final day of the agreement term, based on the Supplier's Normal Service Hours.
- 20.3 The Supplier shall allocate a maximum of two hours towards works relating to termination of the agreement for services such as removal of Intellectual Property or Handover of systems back to the Customer. Any delays in this work caused by the Customer or extra hours required will be considered additional charges.
- 20.4 Upon the termination of this agreement for whatever reason, the Supplier shall:
 - (a) Transfer to the Customer, or to such person as the Customer shall nominate, control of access to the System by providing details of the Supplier's access numbers, password or code and the Access Codes to the Customer or to such other nominated person as requested by the Customer's Contacts; and
 - (b) Remove any items belonging to the Supplier from the Location and the System promptly.
- 20.5 Upon the termination of the agreement, in any circumstances, all outstanding charges shall become immediately due and payable by the Customer before the execution of condition 20.2.
- 20.6 All Supplier responsibilities are terminated upon execution of 20.3 (a).

21. FORCE MAJEURE

The Supplier shall not in any circumstances have any liability to the Customer under the agreement if it is prevented from, or delayed in, performing its obligations under the contract or from 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 the Supplier or any other party), failure of a utility service or transport 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 subcontractors.

22. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement 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 preclude or restrict the further exercise of that or any other right or remedy.

23. RIGHTS AND REMEDIES

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

24. SEVERANCE

24.1 Suppose any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable. In that case, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. The relevant provision or part-provision shall be deemed deleted if such modification is impossible. 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 agreement.

24.2 Suppose any provision or part-provision of this agreement is invalid, illegal or unenforceable. In that case, 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.

25. ENTIRE AGREEMENT

25.1 This agreement constitutes the entire agreement between the parties and supersedes it. It extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

25.2 Each party acknowledges that in entering into this agreement, it does not rely on, and shall have no remedies concerning, any statement, representation, assurance, or warranty (whether made innocently or negligently) that is not set out in this agreement.

25.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or misstatement based on any statement in this agreement.

26. ASSIGNMENT

26.1 Without the Supplier's prior written agreement, the Customer may not assign, transfer, charge, subcontract, or otherwise deal with all or any of its rights or obligations under the contract.

26.2 The Supplier may assign, transfer, charge, subcontract, or otherwise deal with all or any of its rights or obligations under the agreement.

26.3 This agreement shall bind the Customer and all successors in title. If the Customer organisation is acquired, merged with, or becomes part of another organisation, the terms and conditions of this agreement shall remain in full force and effect, and all obligations under this agreement will be binding upon the successor organisation.

27. NO PARTNERSHIP OR AGENCY

Nothing in the agreement is intended to or shall operate to create a partnership between the parties or to authorise either party to act as an agent for the other. Neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including without limitation the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

28. THIRD-PARTY RIGHTS

No one other than a party to this agreement, its successors, and permitted assignees shall have the right to enforce any of its terms.

29. PUBLICITY

No announcement or information concerning this agreement or any ancillary matter shall be made or released or authorised to be made or released by either of the parties without the prior written consent of the other party save as may be required to enable either of the parties to perform its obligations under this agreement or as required by law.

30. NOTICES

30.1 Any notice or other communication given to a party under or in connection with this contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next working day delivery service to its registered office;
- (b) sent by email to an email address to customerservices@primarytech.co.uk

30.2 Any notice or communication shall be deemed to have been received:

- (a) If delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next working day delivery service at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;
- (c) if sent by email on the next Business Day after transmission, along with a response acknowledging receipt.

30.3 This clause does not apply to the service of any proceedings or other documents in the course of any legal action or, where applicable, any arbitration or other method of dispute resolution.

31. GOVERNING LAW

The agreement and any disputes or claims arising out of or in connection with it or its subject matter or formation (including, without limitation, non-contractual disputes or claims) are governed by and construed per the law of England and Wales.

32. JURISDICTION

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 agreement or its subject matter or formation (including non-contractual disputes or claims).

33. DATA PROTECTION

33.1 In these Conditions, the terms Controller, Processor, Data Subject, Personal Data, Special Categories of Personal Data, Processing, Data Protection Impact Assessment, and Personal Data Breach shall be as defined in Data Protection Legislation, and "Data" shall mean the Personal Data and Special Categories of Personal Data provided to the Supplier by the Customer in connection with these Conditions.

33.2 The Customer acknowledges that it is a Controller and the Supplier is a Processor.

33.3 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 33 also does not relieve, remove or replace a party's obligations under the Data Protection Legislation.

33.4 The Supplier shall:

- (a) Ensure that its employees shall Process the Data only on the Customer's instructions as set out or referred to in these Conditions to provide the Services;

- (b) Provide appropriate technical and organisational measures:
 - (i) To ensure the protection of the rights of the Data Subjects; and
 - (ii) Ensure an appropriate level of security, assessing, in particular, the risks that are presented by Processing, to protect the Data against accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Data transmitted, stored, or otherwise processed;
 - (c) Take all reasonable steps to ensure the reliability of any of its staff who have access to and/or process Data in connection with the Services, including duties of confidentiality under any employment contracts;
 - (d) Assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with applicable obligations under the Data Protection Legislation concerning security of Processing, Personal Data Breach notifications and communications, Data Protection Impact Assessments and consultations with supervisory authorities or regulators;
 - (e) Notify the Customer without undue delay after becoming aware of a Personal Data Breach;
 - (f) Notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation;
 - (g) At the written direction of the Customer, delete or return the Data to the Customer after the end of the provision of the Services relating to Processing, except that:
 - (i) The Supplier may keep any Data if required by any applicable laws to store the Personal Data and
 - (ii) The Supplier may keep Data stored in any system back-ups and
 - (h) Maintain complete and accurate records and information to demonstrate its compliance with clause 33 and provide access to the same for an audit. Any audits must be no more than once in a twelve (12) month period and must be on not less than thirty (30) days' notice, must be conducted within the Supplier's regular business hours, cause minimal disruption to the Supplier, and be at the Customer's sole cost.
- 33.5 The parties acknowledge that the Supplier will also use services and/or products from sub-processors to provide the Services under these Conditions and that, in doing so, the Supplier may transfer Data to such sub-processors. Accordingly:
- (a) The Customer consents to the appointment by the Supplier of the sub-processors listed in Schedule 3;
 - (b) The Supplier may appoint new sub-processors or make changes to the list in Schedule 3 provided that it notifies the Customer in writing a reasonable period in advance before a new sub-processor is granted access to Data. The Customer may object on reasonable data protection grounds in writing to the appointment of any new sub-processor provided it does so no later than 14 days after receiving the notice referred to in 33.5 (b). If the parties cannot agree on a solution within a reasonable timeframe, the Supplier may terminate the Services.
- 33.6 The Supplier shall:
- (a) Agree on written contractual obligations with each sub-processor which are at least equivalent to the obligations imposed on the Supplier under this clause 33; and
 - (b) If applicable, ensure that appropriate safeguards are in place before internationally transferring Personal Data to its sub-processors.
- 33.7 The Customer agrees that, to provide the Services under these Conditions, the Supplier will transfer the Data to sub-processors (including Affiliates) as stated in clause 33.7. The Supplier will transfer the Data outside the United Kingdom and the European Economic Area ("EEA") to third countries which, at the time of the transfer, are not covered by adequacy regulations made by the Information Commissioner's Office or the European Commission under the Data Protection Legislation for the transfer of personal data under the Data Protection Legislation (each an "International Transfer"). For each International Transfer, the Supplier shall ensure that an agreement is in place with the relevant sub-processor(s), which shall incorporate the EU Standard Contractual Clauses ("EU SCCs") and UK International Data Transfer Addendum to the EU SCCs for the transfer of Personal Data (the "EU SCCs and UK Addendum") or, if the EU GDPR does not apply, only the UK International Transfer Agreement.
- 33.8 Subject to clauses 33.9 – 33.11, the Supplier shall remain fully liable to the Customer for the performance of any sub-processor appointed under clause 33.5.
- 33.9 The Customer agrees to comply with its obligations under Data Protection Legislation and warrants that it has all necessary consents and notices in place regarding its collection, processing, and provision of Data to enable the lawful transfer of the Data to the Supplier in connection with, and for the duration of, the Services provided under these Conditions.

- 33.10 The Customer shall indemnify and hold harmless the Supplier against all costs, claims, losses, damages, and expenses (including legal fees) arising out of, or in connection with, any breach of this clause 33 by the Customer or its employees, agents, or subcontractors.
- 33.11 The Customer acknowledges that the Supplier relies on the Customer for direction regarding the extent to which the Supplier is entitled to use and process the Data. Consequently, the Supplier will not be liable for any claim brought by the Customer or any Data Subject arising from any action or omission by the Supplier to the extent that such action or omission resulted from the Customer's instructions.
- 33.12 Schedule 3 sets out the following information regarding the Data: subject matter, duration of the Processing, nature and purpose of the Processing, type of Data, categories of Data Subjects, and the Supplier's obligations and rights.

Schedule 1

34. THE SERVICES

- 34.1 **IT as a Service (ITaaS)—("Service")** is a comprehensive solution designed to keep organisations at the forefront of technology through a subscription model over CapEx. The items listed in the Customer quote shall be the Customer's Minimum Commitment and cannot be reduced. Per condition 3.4, the following Product or Service-specific conditions shall also apply.
- 34.2 ITaaS Monthly & ITaaS Annual. As specified in the Customer's Quote, this is a fixed starting Customer charge as of the Commencement Date.
- 34.3 ITaaS Pupil Count Quote quantity;
- (a) The ITaaS Pupil Count is the limit set for the following Services and Products: ITaaS Managed Service, ITaaS EdTech Support, ITaaS Safeguarding, ITaaS -Aware, ITaaS Classroom Management, Safeguarding 24, ITaaS Applications and User Management Services.
 - (b) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
 - (c) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.
- 34.4 ITaaS Staff Count Quote quantity;
- (a) The ITaaS Staff Count is the limit set for Services and Products: ITaaS-Hosting (Remote Access) and ITaaS—Microsoft 365 Licence Staff.
 - (b) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
 - (c) Additional Services or Products charges shall have a minimum term of 12 months from the date of going live.
- 34.5 ITaaS - Managed Service is a comprehensive solution designed to manage, monitor, and maintain the Customer's information technology infrastructure. The Service includes proactive support, ongoing maintenance, troubleshooting, and other IT-related services.
- (a) The service may include, but is not limited to, the following:
 - (i) Helpdesk & Technical Support: Access to a dedicated support team for troubleshooting and resolving IT issues via phone, email, or ticketing system.
 - (ii) Network Management: Managing the Customer's network infrastructure, including routers, switches, firewalls, and other network components.
 - (iii) Server Management: Proactive management and maintenance of physical and virtual servers, including performance monitoring, operating system updates, security patching, and troubleshooting.

- (iv) Workstation Management: Maintaining and supporting end-user devices, including desktops, laptops, and mobile devices, ensuring software updates, virus protection, and performance optimisation.
- (v) Data Backup & Disaster Recovery: Regular backups of critical data and systems and disaster recovery planning and execution to minimise downtime in an unforeseen incident.
- (vi) Software & Hardware Procurement Support: Assistance with selecting, purchasing, and installing hardware and software as per Client requirements. (Extra Charges Applicable)
- (vii) Cloud Services Management (if applicable): Management of cloud-based systems, including data storage, application hosting, and infrastructure as a service (IaaS) platforms, ensuring optimal performance and security. (Extra Charges Applicable)
- (viii) Cybersecurity Services: Implement and manage security measures, including firewalls, antivirus software, intrusion detection systems, and ongoing security audits to safeguard Client data and IT systems. (Extra Charges Applicable)
- (b) The ITaaS - Managed Service quote quantity is the limit set for sites the service covers.
- (c) Fair Usage Applies as per condition 6 and as outlined in Schedule 2.
- (d) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
- (e) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.

34.6 ITaaS - EdTech Support is a comprehensive solution designed to support the use of technology in the workplace.

- (a) The service may include, but is not limited to, the following:
 - (i) Helpdesk & CPD: Access to a dedicated support team for help and guidance with issues via phone, email, or ticketing system.
 - (ii) Google Workspace: Support with the non-technical use of Google Workspace tools.
 - (iii) Microsoft 365: Support with the non-technical use of Microsoft 365 tools.
 - (iv) EdTech Support: Support EdTech, such as Computing Curriculum, Safeguarding Tools, Online Safety, AI and immersive teaching and learning.
- (b) The ITaaS - EdTech Support quote quantity is the limit set for sites the service covers.
- (c) Fair Usage Applies as per condition 6 and as outlined in Schedule 2.
- (d) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
- (e) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.

34.7 ITaaS - Safeguarding is a filtering solution supplied by the Customer to the Supplier that complies with the Department of Education standards.

- (a) Although the Supplier ensures the product's compliance with Department of Education standards, the Customer is responsible for ensuring Product suitability for the Customer, Product testing, and alert monitoring of the ITaaS Safeguarding solution. The Supplier is not responsible for the product's misuse, missing or inaccurate information, or Safeguarding incidents.
- (b) The Customer Shall;
 - (i) Test the Product regularly to ensure the Customer complies with the required standards.
 - (ii) Notify the Supplier immediately of any failures of the Product.
- (c) The ITaaS - Pupil Count quote quantity is the limit set for sites the service covers per condition 34.3.
- (d) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.

- (e) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.
- 34.8 ITaaS - Aware is a safeguarding tool that proactively checks and monitors student wellness to address threats of bullying, violence, self-harm, and suicide early and effectively with powerful and proactive AI-enabled capabilities.
- (a) Although the Supplier ensures the product's compliance with Department of Education standards, the Customer is responsible for ensuring Product suitability for the Customer, Product testing, and alert monitoring of the ITaaS Safeguarding solution. The Supplier is not responsible for the product's misuse, missing or inaccurate information, or Safeguarding incidents.
 - (b) The Customer Shall;
 - (i) Test the Product regularly to ensure the Customer complies with the required standards.
 - (ii) Notify the Supplier immediately of any failures of the Product.
 - (c) The ITaaS - Pupil Count quote quantity is the limit set for sites the service per condition 34.3.
 - (d) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
 - (e) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.
- 34.9 ITaaS - Classroom Management is a simple method of classroom management that helps teachers confidently engage students and lead classes. The Classroom Management tool provides management access for the Teacher to the Student devices.
- (a) The ITaaS Classroom Management tool works on the following devices;
 - (i) Chromebooks
 - (ii) Chromtabs
- 34.10 ITaaS - Safeguarding 24 is an outsourced delegated safeguarding service that monitors the alerts within ITaaS Safeguarding and ITaaS Aware.
- (a) The Supplier acts as a Procurement Service for this Service and is not responsible for its supply.
- 34.11 ITaaS-Hosting provides storage, resources, and access for websites, applications, or data on a server. The server is maintained and managed by a hosting provider, which makes the content accessible over the Internet.
- The below conditions apply to hosting Services;
- (a) The Supplier uses Microsoft Azure as its hosting provider. All resources and storage are located in the UK's South and west.
 - (b) Microsoft's Terms and Conditions, Terms of Use and Service Availability shall apply to the Customer. Breach of those terms shall be solely the responsibility of the Customer.
 - (c) All hosting Services are provided for a minimum term of 36 months.
 - (d) All Servers include a Server Licence only. SQL or Cals shall be an additional charge.
 - (e) ITaaS - User Management Services supplies the following;
 - (i) User Identity Management via Azure AD or Active Directory Services is limited to condition 34.3 and 34.4 user count combined.
 - (f) ITaaS - MIS Hosting is hosting by the Supplier of the Customer's MIS system. The following conditions apply:
 - (i) The Customer will be supplied with a server hosted in Microsoft Azure with the recommended vendor resource specification as of the quote date.
 - (ii) The hosted server shall be limited to the database count for the ITaaS - MIS Hosting quote quantity.

- (iii) The Customer and their Third Party Supplier for the MIS software shall be responsible for its performance. Should performance be degraded through no fault of the Supplier, the Supplier is entitled to;
 - (A) Charge additional fees for remedial works.
 - (B) Increase resources at a cost to the Customer, which may at the discretion of the Supplier;
 - (C) Increase the Contractual Term by an additional 12 months.
- (g) ITaaS-Hosting (Remote Access) provides remote access to the customer's users on the hosting platform. The below conditions apply to hosting Services;
 - (i) The Customer will be supplied with a server hosted in Microsoft Azure with the recommended vendor resource specification as of the quote date.
 - (ii) The Customer will be supplied with web-only access to the resources hosted by the Supplier via an HTTP Gateway.
 - (iii) The hosted server shall be limited to the user count per condition 34.4
 - (iv) The Customer and their Third Party Supplier for the software shall be responsible for its performance. Should performance be degraded through no fault of the Supplier, the Supplier is entitled to;
 - (A) Charge additional fees for remedial works.
 - (B) Increase resources at a cost to the Customer, which may at the discretion of the Supplier;
 - (C) Increase the Contractual Term by an additional 12 months.
 - (v) Should the customer wish to increase the user count, the Supplier is entitled to the following;
 - (A) Increase resources at a cost to the Customer, which may at the discretion of the Supplier;
 - (B) Increase the Contractual Term by an additional 12 months.
- (h) ITaaS - Application Hosting is hosted by the Supplier of the Customer's Applications. The following conditions apply:
 - (i) The Customer will be supplied with a server hosted in Microsoft Azure with the recommended vendor resource specification as of the quote date.
 - (ii) The hosted server shall be limited to the application count for the ITaaS - Application Hosting quote quantity.
 - (iii) Should the customer wish to increase the application count, the Supplier is entitled to the following;
 - (A) Increase resources at a cost to the Customer, which may at the discretion of the Supplier;
 - (B) Increase the Contractual Term by an additional 12 months.
- (i) ITaaS - Server Security & Backup is the levels of Security and Backup applied to the Customer's Hosted Servers. The following conditions apply:
 - (i) The Customer will be supplied with a 24/7 EDR licence, Anti-Virus Licence, Daily Server Snapshots and 50GB per month per server of Cloud Server Backup.
 - (ii) The hosted backup and security shall be limited to the device quantity count for the ITaaS—Server Security & Backup listed on the Customer's quote.
 - (iii) Daily Server Snapshots are retained for a maximum of 7 days unless stated otherwise.
 - (iv) Server Backups are retained for 30 days maximum unless stated otherwise.

- (v) Data integrity is not the responsibility of the Supplier. It shall remain the responsibility of either the third-party software vendor, MIS support provider, or customer to test the integrity of the data within a backup. The Supplier shall not be held responsible for a failed backup restoration.
- (vi) Should the customer wish to increase the Server count, Supplier is entitled to;
 - (A) Increase resources at a cost to the Customer, which may at the discretion of the Supplier;
 - (B) Increase the Contractual Term by an additional 12 months.

34.12 ITaaS Security & Licencing provides security and licences for the Customer's end-user devices. The below conditions apply to Security and Licencing Services;

- (a) Unless explicitly listed in the Customer's quote, no additional Security or licencing is provided.
- (b) ITaaS - Microsoft 365 Licence Staff is the licence applied to Staff Users. The following conditions apply:
 - (i) The Customer will be supplied with a Microsoft 365 A3 Staff Licence.
 - (ii) The Microsoft 365 A3 Staff Licence is limited to the number of ITaaS—Microsoft 365 Licence Staff listed on the Customer's quote.
 - (iii) Should the customer wish to increase the Server count, Supplier is entitled to;
 - (A) Increase the cost to the Customer.
 - (B) Increase the Contractual Term by an additional 12 months.
- (c) ITaaS - Microsoft 365 Licence Staff is the licence applied to Staff Users. The following conditions apply:
 - (i) The Customer will be supplied with a Microsoft 365 A3 Staff Licence.
 - (ii) The Microsoft 365 A3 Staff Licence is limited to the number of ITaaS—Microsoft 365 Licence Staff listed on the Customer's quote.
 - (iii) Should the customer wish to increase the Server count, Supplier is entitled to;
 - (A) Increase the cost to the Customer.
 - (B) Increase the Contractual Term by an additional 12 months.
- (d) ITaaS - User Cloud Backup is the Cloud Backup provided by the user.
 - (i) The Customer will be supplied with a Google Workspace Backup licence (ITaaS - User Cloud Backup (Google) OR a Microsoft 365 Backup licence ITaaS - User Cloud Backup (M365)
 - (ii) The customer's quote will list the platform and user account.
 - (iii) Backups are retained for 30 days maximum unless stated otherwise.
 - (iv) Users will be entitled to 50GB of Pooled Storage across the Customer's platform. That Pooled Storage will cover the user's data and the Customer's shared drives on the relevant platform.
 - (v) Data integrity is not the responsibility of the Supplier, and the supplier shall not be held responsible for a failed backup restoration.
 - (vi) Should the customer wish to increase the User count, the Supplier is entitled to the following;
 - (A) Increase the cost to the Customer, which may at the discretion of the Supplier;
 - (B) Increase the Contractual Term by an additional 12 months.
 - (vii) The Supplier shall not be responsible for the User storing data in the wrong location.
- (e) ITaaS - Managed EDR 24/7 Security (User Devices) is additional security applied to the Customer's Devices.

- (i) The Customer will be supplied with a 24/7 EDR licence.
- (ii) The licence count shall be limited to the number of devices for the ITaaS—Managed EDR 24/7 Security (User Devices) listed on the Customer's quote.
- (iii) Should the customer device count increase, the Supplier is entitled to;
 - (A) Increase resources at a cost to the Customer, which may at the discretion of the Supplier;
 - (B) Increase the Contractual Term by an additional 12 months.

34.13 ITaaS Applications provide various software solutions to the Customer integrated into the ITaaS solution and will be listed on the Customer's quote. If the specific products are not listed in the customer quote, they are not part of the ITaaS Solution. The following terms apply to ITaaS Applications;

- (a) The Customer will be supplied with a tool to sync user data from their MIS to their Primary IT platform (Google or Microsoft) - ITaaS - User Sync (Google) OR ITaaS - User Sync (Microsoft)
- (b) The MIS database limit shall be listed in the customer's quote.
- (c) Should the customer wish to increase the database count or change MIS systems, the Supplier is entitled to;
 - (A) Charge for works to install the syncing tool to a new database.
 - (B) Charge for an additional sync licence.
 - (C) Increase the Contractual Term by an additional 36 months.
- (d) The Customer will be supplied with a tool to link their Primary IT platform (Google or Microsoft) to a dashboard for easier application access.
 - (i) This application shall be limited to one platform, ITaaS - Single Sign-On (Google) or ITaaS - Single Sign-On (Microsoft), as listed in the customer quote.
 - (ii) The Supplier shall make best endeavours to ensure the Customer's application integrates with the Single Sign-on Applications but shall not be responsible for system incompatibility.
 - (iii) The limit set for single sign-on users is the ITaaS - Pupil Count quote quantity.
 - (iv) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
 - (v) The Single Sign-On solution works on the following devices;
 - (A) Chromebooks
 - (vi) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.
- (e) The Customer will be supplied with a tool to link the Microsoft file browser to files stored in Microsoft Teams.
 - (i) This application is limited to the number of Customer sites listed on the Customer Quote for ITaaS—Cloud Files Tools.
 - (ii) The Supplier shall make best efforts to ensure the Customer's application integrates with Microsoft Teams.
 - (iii) Should the Customer exceed this limit, the Supplier is entitled to either refuse to deliver the additional Services or Products or Charge for the additional Services or Products at a rate deemed appropriate by the Supplier.
 - (iv) Additional Services or Products charges shall have a minimum term of 36 months from the date of going live.

34.14 ITaaS Onboarding provides a service to install, configure, and test the hardware and software aligned with the ITaaS solution. The following terms apply to ITaaS Onboarding;

- (a) The onboarding covers only those Systems listed as part of the ITaaS Solution. Additional charges may apply at the Supplier's discretion for the following;
 - (i) Install equipment not purchased through the Supplier.
 - (ii) Request for additional software to be installed.
- (b) The date for the commencement of Works will be agreed between the Supplier and the Customer.
- (c) Suppose the Customer cancels any Works (or re-schedules and subsequently cancels any Works). In that case, the Customer may be charged a cancellation charge of 75% of the total price of the Works if notice of cancellation is given less than seven (7) calendar days before the scheduled commencement date of the Works as agreed between the Customer and Supplier. The Customer agrees that such a charge amounts to a genuine pre-estimate of the losses suffered by the Supplier on such cancellation.
- (d) The Supplier is not responsible for any client-induced delay not as exhaustive but such as;
 - (i) Delayed delivery of equipment.
 - (ii) Access issues or site readiness.
 - (iii) Delayed payment or signing of paperwork.
 - (iv) Changes to the scope of work.
 - (v) Failure of hardware or software provided by a third party.
 - (vi) In case of a client-induced delay, the Supplier is entitled to charge as per conditions 9.1 and 9.2.
- (e) Acceptance Testing
 - (i) The Supplier will perform basic Acceptance Tests to demonstrate to the Customer that the Works listed in the quote is completed.
 - (ii) The Customer is responsible for ensuring that the works are completed as per the quote and must notify the Supplier of any disputes within seven days of completion. Beyond this, the Suppliers hold no responsibility, and any remediation work will be chargeable per conditions 9.1 and 9.2.

Working Day:

Telephone and Live Chat: 08.00 - 17.00 Mon-Fri (excluding bank holidays and between Christmas and New Year)

Online Portal: 24/7 365.

Normal Service Hours:

Telephone and Live Chat: 08.00 - 17.00 Mon-Fri (excluding bank holidays and between Christmas and New Year)

Onsite Support: 09.00 - 16.00 Mon-Fri (excluding bank holidays and between Christmas and New Year)

Online Portal: 24/7 36

Schedule 2

Fair Usage:

IT Managed Service	Inclusive Per Annum Per Service Year (Primary School)	
Per School Pupil Count	Onsite Support (Hours)	Remote Support (Hours)
Up to 100 Pupils	6	40
Up to 200 Pupil	6	40
Up to 300 Pupils	8	60
Up to 400 Pupils	8	60
Up to 500 Pupils	8	80
Up to 600 Pupils	8	90
Up to 700 Pupils	14	110
Up to 800 Pupils	18	120
Up to 900 Pupils	22	130
Up to 1000 Pupils	30	145

IT Managed Service	Inclusive Per Annum Per Service Year (Secondary School)	
Per School Pupil Count	Onsite Support (Hours)	Remote Support (Hours)
Up to 100 Pupils	33	14
Up to 200 Pupil	63	27
Up to 300 Pupils	93	40
Up to 400 Pupils	126	54
Up to 500 Pupils	156	67
Up to 600 Pupils	187	80
Up to 700 Pupils	219	94
Up to 800 Pupils	250	107
Up to 900 Pupils	280	120
Up to 1000 Pupils	313	134
Up to 1499 Pupils	467	200
Up to 1999 Pupils	623	267
Up to 2499 Pupils	779	334
Up to 3000 Pupils	933	400

EdTech Support	Inclusive Per Annum Per Service Year (Primary School)
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Per School Pupil Count	Support (Hours)
Up to 100 Pupils	4
Up to 200 Pupil	8
Up to 300 Pupils	12
Up to 400 Pupils	16
Up to 500 Pupils	20
Up to 600 Pupils	24
Up to 700 Pupils	28
Up to 800 Pupils	32
Up to 900 Pupils	36
Up to 1000 Pupils	40

EdTech Support	Inclusive Per Annum Per Service Year (Secondary School)
Per School Pupil Count	Support (Hours)
Up to 100 Pupils	4
Up to 200 Pupil	8
Up to 300 Pupils	12
Up to 400 Pupils	16
Up to 500 Pupils	20
Up to 600 Pupils	24
Up to 700 Pupils	28
Up to 800 Pupils	32
Up to 900 Pupils	36
Up to 1000 Pupils	40
Up to 1499 Pupils	60
Up to 1999 Pupils	80
Up to 2499 Pupils	100
Up to 3000 Pupils	120

Additional Charges: - Hourly and Day Rate

	Hourly Rate	Day Rate
Helpdesk IT Technician	£40	£250
Onsite IT Technician	£70	£450
Senior IT Technician	£80	£650
IT Consultant	£90	£650
IT Trainer	£80	£550
Telecoms Engineer	£80	£550
Infrastructure Engineer	£80	£550

Schedule 3

Processor Information – Managed Service

The Customer acknowledges that the Supplier and its subcontractors may have access to Personal Data to provide the Services to the Customer throughout the Services term. Below, the Supplier has set out certain information regarding the Supplier's Processing of Personal Data as required by Article 28(3) of the UK GDPR.

Article	Description	Details
28 (3)	Subject matter of the processing	The subject matter is providing the Services to the Customer per these conditions.
	Nature and purposes of the processing	The Supplier will process Personal Data under these Conditions and the Controller's instructions concerning the Services until the expiry or valid termination of these Conditions. The nature of the Processing shall include any operation or set of operations which is performed on personal data or sets of personal data, whether or not by automated means, such as accessing, collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, reporting, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction
	Type of Personal Data	Name Username Gender Contact information Job role Organisation Financial information, e.g. order data Educational and assessment data (including, but not limited to, student responses, marks, examiner/teacher comments, student number, and pupil data) Family data Numerical identifiers including NI number, NASS (National Asylum Support Service) number Date of birth and age Location data such as IP address Screenshots of PC or other device Country of birth/nationality data Language Child protection information, including care order details, Education supervision order Behaviour incidents data Free school meals (FSM) and Pupil Premium data

		<p>Identification information such as a student card, passport or other ID Disclosure and Barring Service (DBS) Status (formerly CRB check), Children's Barred List check (formerly list 99)</p> <p>Employment data, including salary details</p> <p>Qualifications data</p> <p>Any other Data entered in the school management information system (MIS) or shared with the third applications by the Customer and/or its Authorised Users</p> <p>Note that the list above is not exhaustive and may change occasionally as products and services evolve.</p> <p>Any other Data provided to the Supplier during the Term</p>																
	Categories of Data Subject	<p>Third-party vendors or providers engaged by the Supplier</p> <p>Authorised Users</p> <p>Pupils/Children</p> <p>Parents</p> <p>Customers or prospective customers</p> <p>Suppliers</p>																
	Duration of the processing	<p>Processing will be carried out for the duration of the Services. At the end of the term, all data held on the customer site will remain, but the supplier will no longer have access to process it. Service reports will be destroyed on service completion.</p>																
28 (3) (a)	Documented instruction	<p>All Processing carried out by the Supplier for the Customer will be done by these Conditions and the Proposal</p>																
28 (3) (b)	Confidentiality	<p>All the Supplier's staff must agree to a confidentiality clause in their contracts.</p>																
28 (3) (c)	Security	<p>The Supplier holds a minimum of Cyber Essentials Plus and complies with Information Security ISO 27001, the international standard for information security management. In addition, a number of business</p>																
28 (3) (d)	Other processors	<p>See applicable details below</p> <table><tr><th>Name</th><th>Activity</th><th>Location</th><th>Type of Data Processed</th></tr><tr><td>Microsoft</td><td>Provision of Microsoft 365 used for support services and customer management.</td><td>Global</td><td>All types of personal data</td></tr><tr><td>Google</td><td>Provision of Microsoft 365 used for support services and customer management</td><td>Global</td><td>All types of personal data</td></tr><tr><td>Security</td><td>Safeguarding Services</td><td>Global - info here</td><td>User data includes device information, user ID, location, username, and email.</td></tr></table>	Name	Activity	Location	Type of Data Processed	Microsoft	Provision of Microsoft 365 used for support services and customer management.	Global	All types of personal data	Google	Provision of Microsoft 365 used for support services and customer management	Global	All types of personal data	Security	Safeguarding Services	Global - info here	User data includes device information, user ID, location, username, and email.
Name	Activity	Location	Type of Data Processed															
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Security	Safeguarding Services	Global - info here	User data includes device information, user ID, location, username, and email.															
28 (3) (e)	Data subject's right	<p>The Supplier's approach to supporting the Controller's obligation to respond to requests for exercising the data subject's rights is set out in its Data Protection Policy (available upon request) and Privacy Policy (which can be found at www.primarytech.co.uk)</p>																

28 (3) (f)	Compliance	Data Processing carried out by the Supplier will be compliant with Data Protection Legislation. Where appropriate, the Supplier will assist Controllers in demonstrating such compliance
28 (3) (g)	Data deletion	Data held on the local network will not be deleted, but the Supplier's access to the Data will be revoked at the end of the Term
28 (3) (h)	Transparency	The Supplier will make available to the Controller all information necessary to demonstrate compliance with its obligation.

Terms & Conditions