



Stephens IT Solutions
Managed Services Agreement

A background image showing a person's hands typing on a keyboard at a desk. The person is wearing a dark blue t-shirt with the Stephens IT logo. A red folder with the Stephens IT logo is on the desk. The image is overlaid with a semi-transparent red filter.

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MANAGED SERVICES AGREEMENT

THIS AGREEMENT is the date set out in the quotation form to which this agreement is attached

BETWEEN: **Stephens IT Solutions Limited**

company registered in England and Wales under company number 08080361 and having its registered office at Unit 2, Crayfields Business Park, Orpington BR5 3QA ("**We/Us/Our**");

and: The person, firm or company specified in the quotation form to which this agreement is attached ("**Customer/You/Your**")

1. Provision of Services and Terms of the Agreement

- 1.1 We shall provide to the Customer the IT support/ managed service (the "Services") specified in the quotation form.
- 1.2 This agreement also governs the provision of other services that from time to time the Customer may request from us (the definition of such services and the fees associated with them being agreed between the parties at the time).
- 1.3 This agreement shall commence on the date as set out in the quotation form and, unless terminated earlier in accordance with these terms, shall automatically renew on expiry of the minimum term of 12 months and shall continue to renew on a 12-month minimum term basis thereafter unless otherwise specified or unless terminated by either party. Or in the event of the customer giving not less than ninety days' prior written notice to take effect at the expiry of the then current period.

2. Acceptance of this agreement

- 2.1 The Customer is deemed to have accepted the provisions of this agreement once a signed quotation form, agreeing to Our services, is returned to Us.
- 2.2 Alternatively, once the Customer otherwise agrees or We begin to carry out the Services, the terms of this agreement are deemed to have been accepted.

3. Fees

- 3.1 The Customer shall pay to Us fees set out in the quotation form to which this agreement is attached.
- 3.2 The Customer shall pay any applicable VAT to Us on receipt of a valid VAT invoice.
- 3.3 Fees may be payable on an annual, quarterly or monthly basis.
- 3.4 All Our invoices shall be due and paid in full without deduction or set off within thirty days of the date of the invoice. If any sum payable to Us under this agreement is in arrears for more than thirty days after the due date, We reserve the right, without prejudice to any other right or remedy We have under this agreement or in law to:
 - 3.4.1 Charge interest on such overdue sum on a day to day basis from the original due date until paid in full whether before or after any judgment under the Late Payment of Commercial Debts (Interest) Act 1998 at Our sole discretion; and/or
 - 3.4.2 Suspend the provision of any of the Services provided under this agreement on seven days' prior written notice; and/or
 - 3.4.3 Terminate this agreement pursuant to Clause 12.

- 3.5 You will notify us within fourteen days of receipt of an invoice if You consider it to be incorrect or invalid for any reason failing which You will raise no object to any such invoice and shall make full payment in accordance with it.
- 3.6 We may increase the fees payable with immediate effect by written notice to the Customer where there is an increase in the direct cost to Us of supplying the relevant Services and which is due to any factor beyond Our control.
- 3.7 In the event that You do not settle fees in accordance with this clause and the quotation form, We shall be entitled to (without prejudice to its remedies elsewhere in this agreement) to withhold provision of the Services until payment is made.
- 3.8 Any monthly fees are payable on the date of the invoice sent to the Customer.
- 3.9 Monthly fees will be reviewed on a yearly basis in accordance with the then current rate schedule. The first such review will be no earlier than the second anniversary of the date on which the Services commenced. If the Customer does not accept the reviewed annual fee, then provided the Customer serves written notice on Us of its intention to terminate within 21 days the previous monthly fee shall continue in force until the effective date of such termination – three months later.

4. Our liabilities

- 4.1 We shall not be liable to the Customer for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with this agreement other than death or personal injury to the extent only that the same arises as a result of the negligence of Us, Our employees, agents or authorised representatives.
- 4.2 Notwithstanding the generality of Clause 4.1 above, We expressly exclude liability for consequential or direct loss or damage which may arise in respect of the Services or in respect of other equipment or property, or for loss of profit, business, revenue goodwill or anticipated savings.
- 4.3 In the event that any limitation or provision contained in this agreement shall be held to be invalid for any reason and We become liable for any loss or damage that this agreement purports to exclude, such liability shall be limited to the fee paid/ payable by the Customer.

5. Warranty

- 5.1 We warrant that (subject to the other provisions of this agreement), the Services shall:
 - 5.1.1 Conform in all material respects to their description and specification;
 - 5.1.2 Be free from material defects;
 - 5.1.3 Be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II 13;
 - 5.1.4 Be fit for purpose and any purpose held out by the Us and set out in the quotation form; and
 - 5.1.5 In the case of media on which the results of the Services are supplied, be free from defects in material and workmanship and of satisfactory quality within the meaning of the Sale of Goods Act 1979.
- 5.2 We shall, at Our option, remedy, re-perform or refund the Services that do not comply with Clause 5.1, provided that:
 - 5.2.1 The Customer serves a written notice on Us not later than seven working days from performance in the case of defects discoverable by a physical inspection, or within a reasonable period of time from performance in the case of latent defects; and
 - 5.2.2 Such notice specifies that some or all of the Services do not comply with Clause 5.1 and identifies in sufficient detail the nature and extent of the defects; and
 - 5.2.3 The Customer gives Us a reasonable opportunity to examine the claim of the defective Services.

6. Customer responsibilities

- 6.1 You shall comply with Your obligations under this agreement.
- 6.2 Without prejudice to Clause 6.1 above, You will co-operate and assist Us by:
 - 6.2.1 Making available as we reasonably request, such information, data and documentation and timely responses to Our questions as are necessary for Us to provide the Services;
 - 6.2.2 Ensuring that You have current, valid licences for any supported software. We shall not be obliged to provide Services in relation to any supported software for which You do not have a current valid licence;
 - 6.2.3 Affording to Our authorised personnel during support/ business hours and at such other times as We may request on reasonable prior written notice or as may otherwise be expressly agreed with Us, full and safe access to any location, property or facility as may be necessary for us to proceed uninterrupted with the performance of the Services under this agreement and taking all reasonable precautions to ensure the health and safety of Our staff whilst they are on your premises;
 - 6.2.4 Procuring all necessary rights from third parties (including, without limitation, intellectual property licences in relation to computer software) which are from time to time required in order for Us to be able legally to provide the Services;
 - 6.2.5 Not making or causing to be made any modifications to any software provided;
 - 6.2.6 Notifying Us promptly if any supplied software is not operating correctly or of any other problem with it.
- 6.3 If we are delayed or impeded or obliged to spend additional time or incur additional expenses in the performance of any of Our obligations under this agreement by reason of any act or omission of You or Your employees, agents, contractors or subcontractors (including the provision of any such person of any incorrect or inadequate data, information or instructions) then, notwithstanding anything else contained in this agreement, You shall pay Us for any additional time spent and expenses incurred by Us or on Our behalf in carrying out such obligations and caused or rendered necessary by such act or omission and any target time specified for Our performance of any obligations shall be extended accordingly and You shall not be relieved of any of Your payment obligations

7. Indemnity

- 7.1 The Customer shall indemnify, and keep indemnified, Us from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Us as a result of or in connection with the Customer's breach of any of the Customer's obligations under this agreement.

8. Intellectual property

- 8.1 We warrant to the Customer that throughout the period of this agreement any and all trademarks, trade names, copyrights, patents and other intellectual property rights used or embodied in or in connection with this agreement shall be and remain the sole property of Us, excluding trademarks, trade names, copyrights, patents and other intellectual property rights supplied by the Customer. The Customer shall not during or at any time after the expiry or termination of the agreement claim ownership of any such trademarks and others.
- 8.2 The Customer indemnifies Us fully against all liabilities, costs and expenses which We may incur as a result of any work carried out in accordance with the Customer's specifications involving infringement of any trademarks, trade names, copyrights, patents and other intellectual property rights.

- 8.3 Any design work undertaken by Us for the Customer will become the property of the Customer and all rights associated with this work are automatically transferred by Us to the Customer as soon as the work is paid for.

9. Confidential information

- 9.1 The Customer shall keep confidential all confidential information on Us (and of any affiliate of Us) and shall only use the same as required to perform the contract. The provisions of this clause shall not apply to:
- 9.1.1 Any information which was in the public domain at the date of this agreement;
 - 9.1.2 Any information which comes into the public domain subsequently other than as a consequence of any breach of contract or any related agreement;
 - 9.1.3 Any information which is independently developed by the Customer without using information supplied by the Us (or by any affiliate of Us); or
 - 9.1.4 Any disclosure required by law or a regulatory authority or otherwise by the provisions of this agreement.

10. Data protection

- 10.1 Each party shall comply with the Data Protection Act 1998 (the "Act"). Neither party shall by any act or omission put the other party in breach of the Act and each party shall do and execute or arrange to be done and executed each act, document and thing necessary or desirable to ensure that it does not put the other party in breach of the Act.
- 10.2 We will, whilst complying with your rights under both the Act and Regulation (EU) 2016/679 (General Data Protection Regulation) ("GDPR"), use Your personal details and any information We obtain from other sources to provide You with Our goods and services for administration and customer services, to analyse Your purchasing preferences and to ensure that the content, services and any periodically direct marketing that We offer are tailored to Your needs and interests. We may keep your information for a reasonable period of time for these purposes, as applicable by law

11. Force Majeure

- 11.1 We shall be under no liability to the Customer in respect of anything which, apart from this provision, may constitute breach of this agreement arising by reason of force majeure, namely, circumstances beyond the reasonable control of Us which shall include (but shall not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosions, sabotage, accident, embargo, riot, civil commotion, including acts of local government and parliamentary authority, and the inability to provide the Services as a result of the breakdown of equipment.

12. Termination

- 12.1 Either party may terminate this agreement by giving notice in writing to the Customer if:
- 12.1.1 Either party commits a material breach of any term, condition or provision of this agreement;
 - 12.1.2 If either party, being a body corporate, shall present a petition or have a petition presented by a creditor for its winding up, shall convene a meeting to pass a resolution for a voluntary winding up, or shall enter into any liquidation (other than for purposes of a bona fide reconstruction or amalgamation) shall call a meeting of the creditors, or shall have a receiver of all or any of its undertakings or assets appointed in respect of him or shall make or negotiate for any composition or arrangement with or assignment for the benefit of its creditors.

- 12.2 The Customer may as per 1.3, issue a termination request, giving not less than ninety-day prior written notice from end date of the current period. Such request falling outside the ninety-day period will result in the current period renewing for another 12-month term at the end date of the current period.
- 12.3 Termination, howsoever or whenever occasioned, shall be subject to any rights and remedies We may have under this agreement or in law.
- 12.4 Termination or expiry of this agreement shall not affect any accrued rights and liabilities of Us at any time up to the date of termination.

13. Entire agreement

- 13.1 The parties agree that this agreement and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 13.2 Each party acknowledges that it has not entered into this agreement or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in this agreement or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in this agreement.
- 13.3 Nothing in this Agreement purports to limit or exclude any liability for fraud.

14. Time

- 14.1 We will use reasonable endeavours to provide the Services promptly and within any time stated in the agreement between the parties, subject to availability of personnel, necessary supplies and facilities. Any such time is, however, approximate only and time for such delivery or performance shall not be of the essence of this agreement.

15. Variation

- 15.1 No variation of this agreement shall be valid or effective unless it is in writing, refers to this agreement and is duly signed or executed by or on behalf of Us.

16. Assignment

- 16.1 The Customer may not assign, subcontract or encumber any right or obligation under this agreement, in whole or in part, without Our prior written consent.
- 16.2 We may assign, subcontract or otherwise transfer any of Our rights or obligations under this agreement without Your consent.

17. Severance

- 17.1 If any provision of this agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this agreement shall not be affected.
- 17.2 If any provision of this agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or

modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

18. Waiver

- 18.1 No failure, delay or omission by this agreement in exercising any right, power or remedy provided by law or under this agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 18.2 No single or partial exercise of any right, power or remedy provided by law or under this agreement by Us shall prevent any future exercise of it or the exercise of any other right, power or remedy by Us.

19. Third party rights

- 19.1 A person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this agreement.

20. Governing law and jurisdiction

- 20.1 This agreement shall be governed by, and construed in accordance with, English law.
- 20.2 The parties irrevocably agree 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, its subject matter or formation (including non-contractual disputes or claims).

Agreement to contact and signatory:

SIGNED for and on behalf of **Stephens IT Solutions Limited**

Print Name:

Position:

Date:

SIGNED for and on behalf of

Print Name:

Position:

Date: