

BACKUP SERVICE AGREEMENT TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICE FACILITIES

TERMS:

ITVET: ITVET Limited the supplier of these service facilities.
Client: The Individual, Partnership, Firm or Company as detailed on the front of this document under the heading Client.
Client Site(s): The site or sites of Client where the backup services apply as detailed on the front of this document under the heading Client Site(s).

CONDITIONS:

The following Terms and Conditions constitute the "Backup Service Agreement" and govern the delivery of certain services described by **ITVET** to Client. The Service Agreement constitutes the entire understanding between Client and **ITVET** related to the subject matter hereof. All prior written or oral agreements, understandings, communications or practices between Client and **ITVET** are hereby superseded insofar as they relate to the Services hereunder. Any amendments, additions or deletions to this Service Agreement must be signed by a Director of **ITVET** and a partner. By agreeing to use the service the client accepts the terms and conditions contained herein.

EQUIPMENT

The ITVET 'Premium' backup service includes the installation of a bespoke Backup Device at the client site. The said Backup Device shall remain the sole property of ITVET. The client agrees to allow ITVET access to the site during normal office hours, to carry out maintenance on the device. ITVET are not liable for any loss or damage resulting from the inappropriate use of the equipment by the client or any third party acting at the clients request. ITVET are not liable for any claim arising from the failure of the equipment, it is agreed that any claim for incidental or subsequent loss must be pursued by the client, or clients agent directly with the manufacturer of the equipment. The client agrees to keep the equipment safe from harm and to ensure to the best of their capabilities that electricity services are sustained at all times.

SERVICE HOURS

Service Hours are from 9:00AM to 5:00PM every day excluding Weekends and Bank Holidays unless the Client has optionally extended the Service Hours to 24 hours per day, 365 days per year, as agreed and indicated on the front of the document.

CONSIDERATION

In consideration for **ITVET** providing the services described within the Backup Service Agreement the Client agrees to pay to **ITVET** the any payments agreed under the heading Monthly Payment on the front of this document. The Client will be invoiced their Annual/initial Charges in advance commencing on the Support Start Date as agreed on the front of this document and thereafter by monthly standing order in advance.

ADDITIONAL CHARGES

In addition to the charges set out in this Agreement **ITVET** will also, using the **ITVET** current commercial rates or the reduced hourly/daily rates agreed on the front of this document for:
Additional DATA storage space used and any service requested but not covered by this Service Agreement.
Any service requested out of Service Hours, this will be charged at twice the current commercial rates or the reduced hourly/daily rates agreed on the front of this document.
Consumables requested by the Client.

PAYMENT TERMS

Invoices made payable under this contract must be paid within thirty days of the invoice date. If the Client fails to make payment within thirty days **ITVET** reserves the right to:
Withhold service facilities until payment is made in full.
Charge interest at a rate of 2% per calendar month or part thereof.
Charge an administration fee of £50.00.

CLIENT AGREEMENT

The Client agrees: unless specifically requested

1. Not to assign the Agreement without the written consent of **ITVET** (such consent not to be unreasonably withheld).
2. To allow a service engineer or other authorised representative of **ITVET** to enter the Client Site(s) for the purpose of inspecting, repairing, servicing or removing the Equipment during the Service Hours.
3. To use for each item of Equipment only supplies approved by the Manufacturer of the Equipment.
4. Not to attempt to alter, repair or otherwise interfere with any item of Equipment unless strictly in accordance with the manufacturers instruction manual or as directed by ITVET or its agents.
5. Only to use each item of Equipment in accordance with the manufacturers specifications.
6. Not to move any item of Equipment from the Client Site(s) without the prior written consent of **ITVET**. Such consent not to be unreasonably withheld provided that the new location falls within the normal servicing area of **ITVET**.
7. That permission has been obtained for both Client and **ITVET** to access and use Equipment including all data, hardware and software components for the purpose of providing service under this Service Agreement.
8. That any information or data disclosed to **ITVET** is not confidential or proprietary to you or any third party.
9. **We** reserve the right to refuse **service** to any person, company or organisation without reason. **We** also reserve the right to terminate the **service** of any existing client without reason.
10. That the services are provided solely to the customer as either a business entity or an individual
11. To keep their username password and encryption key confidential and not to disclose this to anyone, except nominated and trusted employees on an as required basis only.
12. To not use Remote Backup for file sharing purposes. That **you** shall be limited to a fixed disk space limit. **You** have the option to upgrade **your** account should **your** limit be reached. Should **you** reach or exceed **your** limit and not upgrade **your** hosting account, **you** will not be able to upload files unless **you** remove files to create sufficient free disk space.
13. **Our** Remote Backup services are provided without guarantee, either expressed or implied. **You** agree to fully indemnify **us** in relation to, but not limited to:
 - data retention
 - data integrity
 - continuance or availability of **service**
 - any man made or natural disaster including, but not limited to, fire, flood and acts of terrorism**You** agree that **we** make no representation, claim or promise that **our** Remote Backup can provide any level of function, safety, security or fitness for any purpose whatsoever

SERVICE AGREEMENT TERM

This Service Agreement shall commence on the date the service commenced and shall continue for a Primary Term of Eighteen months from the Service Start Date. After the primary term this Agreement on a rolling 12 months basis unless terminated by either party giving the other at least ninety days notice in writing, such notice to expire on an anniversary of the Service Start Date and not before the end of the Primary Term. Such Termination shall be known as "Terminated Validly".

ITVET TERMINATION

ITVET may terminate this Service Agreement, without any prejudice to any of its rights hereunder, forthwith and without further notice if the Client: Commits any major or persistent breach of any term or condition of this Agreement.
Fails to pay a due invoice within 60 days of the invoice being due.
Being a limited company, calls any meeting of creditors, has a receiver appointed or enters into liquidation.
Not being a limited company has a bankruptcy petition served upon him or enters into or arranges a composition with his creditors. Termination of this Agreement by **ITVET** will not discharge any pre-existing liability of the Client to **ITVET**.
On such termination **ITVET** shall be entitled to recover from the Client, in addition to all existing outstanding charges, the total of the charges which would have been payable had the Agreement not been terminated but had continued until the first day upon which it could be Terminated Validly, less a discount of ten per cent from each whole year remaining plus interest at a rate of 1% per month (or if disputed the maximum rate allowable in law) or part thereof on the sum recoverable from the effective date of termination until payment.

CLIENT EARLY TERMINATION

Client recognises that the pricing in this Service Agreement has been calculated on the basis that the Service Agreement continues until Client is entitled to terminate as detailed under Service Agreement Term and that **ITVET** has made commitments to both its Staff and Suppliers on the basis of this commitment. The Client may terminate this agreement before they are entitled to do so but it is agreed that the following charges will be made for early termination: except if there is a persistent breach by either party Before Service Start Date Client agrees to pay 50% of the total of all Charges which would have been payable had the Agreement not been terminated but had continued until the first day upon which it could be Terminated Validly. After Service Start Date but before the end of the Primary Term Client agrees to pay 100% of the total of all Annual Charges which would have been payable had the Agreement not been terminated but had continued until the first day upon which it could be Terminated Validly, less a discount of ten per cent from each whole year remaining. After the end of the Primary Term but before an Anniversary Client agrees to pay 100% of the total of all Annual Charges which would have been payable had the Agreement not been terminated but had continued until the first day upon which it could be Terminated Validly.
Early Termination of this Service Agreement by Client will not discharge any pre-existing liability of Client to **ITVET**. On such termination **ITVET** shall be entitled to recover interest at a rate of 1% per month (or if disputed the maximum rate allowable in law) or part thereof on the total of all sums recoverable from the effective date of termination until payment.

ITVET PROPERTY

All rights and title to the licences or services delivered to the Client under this agreement will be reserved to **ITVET** until the time of receipt by **ITVET** of all sums payable in respect of this agreement and any other sums due from the Client at the date of delivery on any other account. Until such payments have been received in full **ITVET** may repossess the licences or services and thereafter resell the same and for this purpose the Client grants an irrevocable right and license to **ITVET** or their authorised representative to enter upon all or any of its premises with or without vehicles during Service Hours. This right will continue notwithstanding the termination of this Agreement and without prejudice to any accrued rights to **ITVET**. Until payment as aforesaid the Client will hold and store the supplies in a fiduciary capacity as bailee for **ITVET** and in such a place and way that they are clearly and readily identifiable as **ITVET** property.

LIABILITY

Personal Injury and Death.
Nothing in the Service Agreement shall be construed as limiting the liability of either party for personal injury or death resulting from the negligence of a party or its employees.
Damages. Notwithstanding any other provision hereof, neither party shall be liable for any damages for lost profits, lost revenues, loss of goodwill, loss of anticipated savings, loss of Clients, loss of data or interference with business, or for the cost of purchasing replacement services, or for any indirect, incidental, special, consequential, exemplary or punitive damages, whether or not caused by the acts or omissions or negligence of its employees or agents, and regardless of whether such party has been informed of the possibility of the likelihood of such damages.
Limitation. **ITVET** sole liability for damages arising out of the furnishing or the failure to furnish Services (including but not limited to mistakes, omissions, interruptions, delays, errors or other defects) is limited to the payments due under this Service Agreement.

Disclaimer of Warranties. Except for warranties expressly made in the Service Agreement, **ITVET** makes no warranties or representations express or implied, either in fact or by operation of law, statutory or otherwise, including warranties of satisfactory quality and or fitness for a particular purpose.

Force Majeure.

Neither party shall be liable, nor will any service credits be applied, for any failure or delay in carrying out its obligations under this Service Agreement due to causes beyond such party's reasonable control, including but not limited to: Acts of God, fire, flood or other catastrophes, any law, order, regulation, direction, action or request of any governmental entity or agency, or any civil or military authority, national emergencies, insurrections, riots, strikes, lock-outs, work stoppages or other labour difficulties.

We are a company registered in England and Wales, and **our** Remote Backup servers are located in The United Kingdom. Customers agree not to store data on **our** Remote Backup servers that will violate English Law, US Law or the laws of any localities that **we** do business in.

GENERAL

The invalidity of any individual provision of these Conditions shall not effect the validity of the remaining provisions.
ITVET failure to insist on a strict performance of any provision of this Service Agreement shall not be deemed to be a waiver of its rights and remedies in any subsequent default by the Client in the performance or compliance with any of these Conditions. The Client acknowledges that where this Agreement shall be signed by an employee or an agent of the Client who has been held out to **ITVET** as duly authorised in that behalf the Agreement shall be binding on the Client. **ITVET** reserve the right to assign the benefit or burden of this contract.
Any notice requiring to be given or served in writing to **ITVET** under or pursuant to these Terms and Conditions must be sent by prepaid first class recorded delivery and the Client must retain the relevant receipt otherwise the notice shall not be considered as having been duly given or served. Such notice to be sent to the address on the front of this Service Agreement. **ITVET** reserves the right for any dispute under this Service Agreement to be referred to an independent arbitrator in accordance with the Arbitration Act 1950 (as amended).
Both **ITVET** and Client agree that this Agreement will be ruled by English law and agree to submit to the jurisdiction of the English courts. The Terms of this Service Agreement are believed to be fair and reasonable and reflect the pricing, staffing and insurance arrangements of **ITVET**. If the Client believes that the Terms and Conditions are not fair and reasonable or the Client does not agree with any Term or Condition within this Service Agreement then the Client should not sign his acceptance of this Service Agreement and should advise **ITVET** in writing.