

# JT DISASTER RECOVERY SERVICE

## TERMS AND CONDITIONS

These terms and conditions are important and should be read carefully. If you have any queries regarding the terms and conditions please telephone 01534 882882 in Jersey or 01481 818152 in Guernsey, or contact JT via [www.jtglobal.com](http://www.jtglobal.com).

### 1. DEFINITIONS

In the Conditions (as defined below) the following terms shall have the following meanings unless expressly stated otherwise:

- 1.1. "Activate" or "Activated" or "Activation" means the commencement and/or implementation of the disaster recovery plan as described in the Product Description.
- 1.2. "Application Form" means the completed application or quotation or proposal form for a Service as signed by the Customer and submitted to JT.
- 1.3. "Conditions" means these terms and conditions, the Application Form and Product Description and any variations thereto.
- 1.4. "Contract" means the agreement made between the Customer and JT for the provision of a Service which agreement is governed by the Conditions.
- 1.5. "Customer" means the person or persons named in the Application Form.
- 1.6. "GST" means Goods and Services Tax charged in the Bailiwick of Jersey, where applicable, by JT to the Customer in addition to the costs of Services supplied, pursuant to the Goods and Services Tax (Jersey) Law 2007 and/or the Goods and Services Tax (Jersey) Regulations 2007.
- 1.7. "JT" means JT (Jersey) Limited, registered number 83487, having its principal place of business at 1 The Forum, Grenville St., St Helier, Jersey, JE4 8PB and/or JT (Guernsey) Limited, registered number 39971, having its principal place of business at 24 High Street, St Peter Port, Guernsey GY1 2JU as applicable, and their successors or assigns as notified to the Customer from time to time.
- 1.8. "JT Group" means any direct or indirect subsidiary for the time being of JT Group Limited.
- 1.9. "Minimum Contract Period" means a period of twelve months from the commencement of the Contract or such other period as may be stated in the Application Form.
- 1.10. "On-line" means accessible over the world wide web at JT's site at [www.jtglobal.com](http://www.jtglobal.com) or such other site as may be notified from time to time.
- 1.11. "Product Description" means the description and any technical specification of the relevant Service, together with any applicable Customer specific service level agreement, as available from JT's offices or On-line or as provided to the Customer.
- 1.12. "Service" means the provision by JT of disaster recovery service (as selected by the Customer in the relevant Application Form) or any other service selected by the Customer in the Application Form, where these Conditions are stated to apply.
- 1.13. "Service Charges" means the sums, including GST where applicable, charged to the Customer by JT for the provision and use of a Service.

### 2. COMMENCEMENT AND DURATION

- 2.1. Unless otherwise expressly agreed in writing or provided for by law or regulation, the Contract shall have effect from the earlier of:
  - (a) when the Application Form has been received and accepted by JT; or
  - (b) when a Service is provided to the Customer.
- 2.2. Subject to the provisions of clauses 13.1 and 13.2 hereunder the Contract shall remain in force for the Minimum Contract Period and thereafter shall continue in force until terminated by either party in accordance with clause 13.3 below.
- 2.3. Save where termination is notified by the Customer to JT under clause 13.2 below, if: (a) the Customer terminates the Contract during the Minimum Contract Period; or (b) pursuant to clause 5 below, JT either cancels a Service during the Minimum Contract Period or suspends or limits a Service during the Minimum Contract Period and does not reinstate it, the Customer shall, even if JT has terminated the Contract pursuant to clause 13 below by reason of the matter giving rise to the cancellation, suspension or limitation, pay a sum equal to the Service Charge and any extra charges which would have been payable to JT for the balance of the Minimum Contract Period.
- 2.4. Nothing in this clause shall prevent either party from terminating the Contract in accordance with clause 13 below.

### 3. VARIATION

- 3.1. JT may from time to time vary the Conditions and Product Description applicable to a Service and will as soon as practicable and in any event not less than one calendar month before any such variation is to take effect give notice of such variation On-line and / or at JT's office(s) in Jersey and/or Guernsey as applicable.

- 3.2. Notwithstanding the above, JT may vary all or any of the Service Charges by publishing any such variation in a schedule of tariffs to be displayed and / or available at JT's office(s) in Jersey and/or Guernsey as applicable and / or On-line and / or in writing to the Customer such variation to have immediate effect unless stipulated otherwise.
- 3.3. Other than as stated above any variations to the Contract shall be made in writing by JT and signed by a duly authorised officer of the same.
- 3.4. Save as herein expressly provided no servant or agent of JT shall have the authority to agree any variation or addition to the Contract. Any representation or warranty so made is of no force or effect unless made in accordance with this clause.

### 4. SERVICE

- 4.1. Where part or parts of a Service will be provided and / or supported by a telecommunications provider other than JT, JT shall not be responsible for those parts so provided.
- 4.2. A Service does not include the provision of any telephone lines that will be used by the Customer to make and/or receive calls once a Service is Activated or otherwise.
- 4.3. JT reserves the right to vary the technical specification of a Service at any time.
- 4.4. JT will deliver a Service using the most appropriate method, medium or technologies as decided by JT at its sole discretion.
- 4.5. JT reserves the right without penalty to alter the Customer's telephone numbers provided by JT or any other names, codes or numbers allocated from time to time by JT for use in connection with a Service and all and such addresses, names, codes or numbers remain the property of JT.
- 4.6. Where the Customer comprises more than one person JT reserves the right to provide information with respect to a Service provided to the Customer to any of the persons named in the Application Form.
- 4.7. JT reserves the right to disclose the name, telephone and / or facsimile numbers and / or e-mail address of the Customer to any person making any complaint or enquiry in relation to use of the Service, or in an emergency to the emergency services.
- 4.8. The Customer acknowledges that JT is unable to exercise control over the content of data made available to, accessed by, transmitted by, or published by the Customer and undertakes to use a Service only for lawful purposes.
- 4.9. A Service will only be deemed Activated by JT if the process for Activation by the Customer described in the Product Description is executed correctly.

### 5. SUSPENSION OF A SERVICE

- 5.1. JT may (without prejudice to any other right or remedy) suspend, limit or cancel a Service to the Customer without penalty and with immediate effect:
  - 5.1.1. during any technical failure, modification or maintenance of a Service or where it is unable to provide a Service for reasons beyond its control or otherwise for reasons not its fault provided that JT will use its reasonable endeavours to procure resumption of a Service as soon as reasonably practical;
  - 5.1.2. if the Customer fails to observe or perform the Conditions;
  - 5.1.3. if JT has reasonable grounds to suspect that a Service is being used fraudulently or otherwise illegally; or
  - 5.1.4. if JT has reasonable grounds to believe that the Customer has provided JT with false, misleading or incomplete details about him- or herself or any other person who may use a Service (including, but not limited to, name, current and previous address(es), date of birth, telephone numbers, employment information and bank and credit or debit card information) when the Customer applied for a Service or thereafter or that the Customer has failed to tell JT if any of these details have changed.
- 5.2. Notwithstanding any suspension, limitation or cancellation of a Service under this clause the Customer shall remain liable for all charges due hereunder throughout the period of suspension, limitation or cancellation unless JT at its sole discretion determines otherwise but the Customer shall not be liable for any line rental charge for any period beyond a seven day period of suspension or limitation or the seventh day of cancellation.

### 6. CHARGES AND PAYMENT

- 6.1. The Service Charges shall comprise any connection or set-up charge for the Service, whether initial or after suspension, limitation or cancellation, and rental charge (payable in advance) for a Service where such charges depend on the relevant service options selected in the Application Form.

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- 6.2. The Service Charges do not include any charges for call forwarding which shall be billed to the Customer in addition to the Service Charges when a Service is Activated.
- 6.3. In addition to charging GST where applicable in respect of the supply of Services, JT will, where applicable, charge the Customer GST in respect of the supply of other goods and/or services under this Contract and the Customer will pay that amount in addition to the charges for those other goods and/or services.
- 6.4. Where more than one person is named as a Customer liability for the Service Charges and/or any additional sums relating to a Service shall be joint and several.
- 6.5. Where the Customer requests work to be carried out which is not included in the Service Charges JT may charge additional sums. JT will, for example, make extra charges where:
- 6.5.1. it responds to a fault report and no fault is found to exist;
- 6.5.2. repair of a fault reported by the Customer is made more difficult or costly by breach of the Customer's obligations under the Contract;
- 6.5.3. it corrects any defect or fault caused by the Customer or anyone using a Service;
- 6.5.4. it performs any task requested by the Customer outside JT's normal or contracted hours of business.
- 6.6. Service Charges and/or any additional sums are payable in full on demand or as otherwise agreed between the Customer and JT. If payment is agreed in writing to be made by instalments and if the Customer fails to pay any instalment on its due date then JT shall be entitled to demand immediate payment of the unpaid balance (including all arrears).
- 6.7. JT reserves the right to charge interest on any balances which remain unpaid for more than 30 days from the due date at 3% above the short term base lending rate from time to time prevailing in England.
- 6.8. For the purposes of credit referencing and fraud prevention, JT reserves the right from time to time during the term of the Contract to:
- 6.8.1. make searches about the Customer at credit reference agencies and elsewhere to verify the Customer's identity and to help JT to decide whether to accept the Customer's application for Service and/or to continue to provide Service to the Customer;
- 6.8.2. use (and share with debt collection agencies and appropriate authorities) the Customer's details for the purpose of collecting debts, preventing and detecting fraud and seeking to recover damages and costs arising from fraud or other unlawful activity on the part of the Customer;
- 6.8.3. record, and pass to the appropriate authorities, details of any false or inaccurate information provided by the Customer or where JT suspects fraud or any other unlawful or improper activity on the part of the Customer; and
- 6.8.4. pass on to and share information with other communications service providers and network operators for the detection and prevention of theft and fraud..
- ### 7. OBLIGATIONS OF THE CUSTOMER
- 7.1. The Customer shall:
- 7.1.1. only use, make use of, cause, allow or permit to be used a Service in accordance with the specification contained in the Application Form, Product Description and any instructions provided by JT and shall only use a Service for the purpose for which it was designed;
- 7.1.2. enter into an appropriate contract with any other telecommunications provider that provides part or parts of a Service;
- 7.1.3. comply with JT's reasonable requests for assistance in order to diagnose existing or potential faults;
- 7.1.4. keep any login code and / or password assigned by JT or otherwise for use of a Service secure and not disclose the same to any unauthorised person;
- 7.1.5. immediately notify JT should the Customer know or suspect that:
- (a) a login code and / or password has been obtained by any unauthorised person;
- (b) unauthorised access to Customer Equipment, either physical or otherwise is being or has been made;
- 7.1.6. be responsible for all and any charges of any nature that may be incurred by JT as a result of any use, authorised or not, of the login code and / or password;
- 7.1.7. be responsible for all damage or loss caused to JT or third parties by misuse of a Service other than due to the acts or omissions of JT its employees, agents and / or subcontractors;
- 7.1.8. take all appropriate measures to safeguard the security of data sent by means of a Service; and
- 7.1.9. promptly advise JT in writing of any change of billing address, contact address or contact number;
- 7.2. The Customer shall not by themselves or otherwise:
- 7.2.1. use a Service in breach of any terms of any licence applicable to the Customer;
- 7.2.2. use a Service for purposes or to send, transmit, publish, display, advertise or make available material, information, messages or communications which infringe/s copyright or any other intellectual property right held in any country are/is offensive, abusive, obscene, pornographic, threatening, annoying, defamatory, incite/s hatred, panic or anxiety, breach/es confidence, are/is otherwise unlawful or infringe/s any third party's legal rights of whatever nature under the laws of any jurisdiction; or
- 7.2.3. use a Service for any purpose which may result in the illegal access to or collection of data whilst in transit, illegal access to computers or networks, spamming, flooding or other such broadcasts together with any other activity which may adversely affect JT or any third party.
- ### 8. ASSIGNMENT
- 8.1. The Customer may only assign the Contract with the prior consent of JT, such consent not to be unreasonably withheld.
- 8.2. JT reserves the right to assign all or part of the Contract to any person and / or to sub-contract any of its obligations hereunder upon giving 28 days' notice to the Customer.
- ### 9. EXCLUSION AND LIMITATION OF LIABILITY
- 9.1. The following provisions set out JT's entire liability (including any liability for the acts and omissions of its employees agents and sub-contractors) to the Customer in respect of any breach of contract, misrepresentation, tortious act or omission including negligence or otherwise arising under or in connection with the provision of a Service. **The Customer's attention is in particular drawn to these provisions.**
- 9.2. JT does not exclude or restrict liability for death or personal injury resulting from its own negligence.
- 9.3. Unless otherwise expressly agreed in writing by the parties (in a service level agreement or otherwise), JT shall not be liable to the Customer or to any other person for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the provision of a Service except as provided in clause 9.2 above. Whilst JT will use its reasonable endeavours to maintain the quality of a Service and to ensure that a Service is available at all times it makes no representation or warranty in relation thereto.
- 9.4. Without prejudice to the generality of clauses 9.2 or 9.3, JT shall not be liable to the Customer or to any other person for:
- 9.4.1. any defect in, poor quality of, unavailability, interruption or discontinuance of a Service or any website or e-mail address (and without prejudice to the generality of the foregoing and clause 9.2, JT shall in no circumstances be liable for any defect in, poor quality of, unavailability or interruption lasting less than 3 (three) days);
- 9.4.2. any loss of profits, business revenue, goodwill or anticipated savings, or any type of special, indirect or consequential loss (including but not limited to loss or damage to data, equipment or property even if in the care, custody or control of JT) whether direct, indirect, foreseeable or unforeseeable;
- 9.4.3. any use of a Service by or activities of the Customer, in particular but not limited to any acts which under the laws of any jurisdiction infringe any third party's intellectual property rights (including the use of any domain name) infringe obscenity laws, constitute threats, are in any way defamatory or are illegal or give rise to any liability in any way.
- 9.5. JT is not responsible for maintaining any insurance cover of any nature to cover any loss by the Customer or any other party arising from the provision or unavailability of a Service or otherwise and any such insurance cover shall be the responsibility of the Customer.
- 9.6. If any exclusion or limitation of liability contained in this clause is invalid and JT becomes liable for any loss or damage, the Customer (acknowledging that JT is not able to evaluate any potential loss to the Customer) agrees that JT's liability for any one event or series of events shall in any event be limited to the Service Charges payable by the Customer for the Minimum Contract Period.
- 9.7. Each provision of this clause shall operate independently of each other provision of this clause.
- 9.8. The Customer agrees to indemnify JT and hold JT harmless in respect of all costs, damages, awards and expenses and professional fees of any kind (without limit) arising from or in

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connection with any claim brought against JT by any third party located in any jurisdiction arising from any use of a Service provided to the Customer (by either the Customer or any other party) constituting any unlawful act or otherwise giving rise to any liability. The Customer shall immediately notify JT in writing of any such claims of which it becomes aware. The Customer further agrees to offer all reasonable assistance to JT in defending such claims at the sole expense of the Customer.

### 10. FORCE MAJEURE

JT shall not be liable in respect of any breach of the Contract due to any cause beyond its reasonable control including (but without limitation): act of God, pandemic, inclement weather, lightning, flood or fire; industrial action or lockouts; the act or omission of Government, highway authorities, or any other competent authority; war or armed conflict, military operations, vandalism or riot; the act or omission of any other party (including any other party that provides any part of a Service or upon which JT relies in order to provide any part of a Service) and national and / or civil emergencies.

### 11. ENTIRE AGREEMENT

The Conditions supersede all prior oral or written communications regarding a Service and contain the whole agreement between the parties relating to a Service, unless specifically otherwise agreed in writing.

### 12. NOTICES

12.1. Any notice or other communication required to be given or served for the purposes of the Contract except where otherwise provided shall be in writing and shall be deemed to have been duly given and served if sent by post, facsimile or delivered by hand. Notices shall be deemed received 48 hours after posting or transmitting.

12.2. The Customer's address for correspondence shall be the contact address as specified in the Application Form or an address notified to JT by the Customer in writing as an address to which bills may be sent or the Customer's usual or last known place of abode or business or if the Customer is a limited company its registered office.

12.3. JT's address for correspondence in the Bailiwick of Jersey shall be P.O. Box 53, 1 The Forum, Grenville Street, St Helier, Jersey JE4 8PB.

12.4. JT's facsimile number for notice by facsimile in the Bailiwick of Jersey shall be 01534 882883.

12.5. JT's address for correspondence in the Bailiwick of Guernsey shall be 24 High Street, St Peter Port, Guernsey GY1 2JU.

12.6. JT's facsimile number for notice by facsimile in the Bailiwick of Guernsey shall be 01481 818182.

### 13. TERMINATION

13.1. The Contract may be terminated immediately by JT without penalty to itself if the Customer:

13.1.1. fails to satisfy JT with regard to any credit check undertaken in respect of the Customer;

13.1.2. fails to pay when due any sum payable under the Contract or any other agreement or contract made between the Customer and JT;

13.1.3. becomes bankrupt within the meaning of Article 8 of the Interpretation (Jersey) Law 1954 or otherwise commits any act indicative of insolvency under the law of any jurisdiction or enters into any composition with its creditors in Jersey or elsewhere;

13.1.4. is declared en désastre or passes any special resolution to enter into voluntary liquidation or is placed into compulsory liquidation by act of the Royal Court of Guernsey or a summons or process is served upon the Customer with the intent of obtaining any such order or the Customer becomes bankrupt or otherwise commits any act indicative of or analogous to insolvency under the law of any jurisdiction or enters into any composition with its creditors in the Bailiwick of Guernsey or elsewhere;

13.1.5. fails to observe or perform the Conditions or the conditions of any other agreement or contract made between the Customer and JT and fails to remedy such breach as soon as possible and in any event within 28 days after the date that JT serves written notice on the Customer in relation to such breach;

13.1.6. uses a Service in a manner which is unsafe or which has not been approved by JT;

13.1.7. uses a Service fraudulently or in connection with a criminal offence;

13.1.8. makes improper use, within the meaning of Article 51 of the Telecommunications (Jersey) Law 2002, or any amendment or supervening law thereto, of a Service;

13.1.9. makes improper use, within the meaning of Article 16(1) of the Telecommunications (Bailiwick of Guernsey) Law 2001, or any amendment or supervening law thereto, of a Service;

13.1.10. does or allows to be done anything which in JT's opinion will or may have the effect of jeopardising the operation of the telecommunications system provided by JT to any of its customers;

13.1.11. connects equipment other than Type Approved Equipment to the Service; or

13.1.12. enters into a contract with another telecommunications provider for part of a Service and such contract is suspended or terminated.

13.2. The Contract may be terminated by the Customer if:

13.2.1. JT unreasonably exercises its rights of variation or suspension under the Contract, by the Customer giving written notice to JT within 14 days of the notice of variation or suspension;

13.2.2. JT exercises its rights of variation of the technical specification of a Service such that performance of the same is materially degraded, such termination to be on 14 days' written notice without further obligation;

13.2.3. JT fails to observe or perform its obligations under the Contract and fails to remedy such breach as soon as possible and in any event within 28 days after the date that the Customer serves written notice on JT in relation to such breach, by giving written notice to JT of such termination.

13.3. Subject to clauses 2.2, 13.1 and 13.2 either party may terminate the Contract provided always that the party wishing to terminate the contract gives to the other party written notice of its intention to do so; in the case of the Customer of at least one calendar month and in the case of JT at least six calendar months prior to the effective date of the purported termination of the Contract and such termination shall not affect any rights of either party to enforce any term hereof which right has accrued prior to the effective date of termination.

### 14. SEVERANCE

If any provision of the Contract is held by any competent authority to be invalid or unenforceable in whole or in part, the validity of the other provisions of the Contract and the remainder of the provisions in question shall not be affected.

### 15. GOVERNING LAW

15.1. A Contract made between the Customer and JT (Jersey) Limited shall be governed by and construed and interpreted in accordance with the law of the Island of Jersey and the parties hereby submit to the exclusive jurisdiction of the Royal Court of Jersey.

15.2. A Contract made between the Customer and JT (Guernsey) Limited shall be governed by and construed and interpreted in accordance with the law of the Island of Guernsey and the parties hereby submit to the exclusive jurisdiction of the Royal Court of Guernsey.

### 16. DATA PROTECTION

16.1. JT will not without the Customer's written consent disclose information provided to it by the Customer for the purposes of the Contract to anyone other than (i) members of the JT Group or (ii) subject to the relevant Data Protection legislation, third party sub-contractors or agents engaged by JT, such disclosure being made in either case in order for it to be able to provide the Customer with a Service.

16.2. JT adheres to strict data protection policies in accordance with the Data Protection (Jersey) Law 2005 or the Data Protection (Bailiwick of Guernsey) Law 2001 as applicable, details of which policies are included in the relevant Consumer Code of Practice which can be found On-line at [www.jtglobal.com](http://www.jtglobal.com).

16.3. JT reserves the right to disclose the name, address, telephone and/or facsimile numbers and/or email addresses of the Customer to any judicial, law enforcement, regulatory or governmental body or agency where required by applicable law or by the Order of a court or other body of competent jurisdiction to do so.