



**1. HOSTING PRODUCT TERMS**

1.1 These Product Terms form part of the Agreement and set out the additional terms on which K3 provides Hosting Services.

**1.2 Definitions.**

**Appendix:** means the appendix to these Product Terms.

**Base Software:** the SaaS operating system and application software as set out in the Order Form (if any) required to operate the infrastructure for provision of Hosting Services.

**Customer Software:** the software applications licensed by the Customer as set out in the Order Form to be hosted by K3 as part of the Hosting Services but excluding Base Software.

**Extended Hours:** (if applicable) the hours outside of the Standard Hours during which K3 is to provide Helpdesk Services in respect of Extended Hours Incidents as set out on the Order Form and/or in the Support Handbook, as may be updated from time to time by K3 and notified to the Customer.

**Extended Hours Incidents:** means the type of incidents related to the production environment covered by the Helpdesk Services during Extended Hours as set out on the Order Form and/or in the Support Handbook, and as may be updated from time to time by K3 and notified to the Customer.

**Helpdesk Services:** the provision of a K3 remote support helpdesk service to enable the Customer to report and K3 to investigate faults or errors with the Hosting System or Hosting Services, in accordance with the Agreement and these Product Terms.

**Hosting Specification:** means (taken together and where applicable) (i) server specification; (ii) processor specification; (iii) Base Software; (iv) storage specification; (v) Protection Tier and/or (vi) monitoring level, in each case as and to the extent set out in the Order Form.

**Hosting System:** the server hardware, IT infrastructure, software, IT material and associated media used by K3 (or its subcontractors) to provide the Hosting Services.

**Hosting Services:** (as applicable) (i) the provisioning of the Base Software (ii) the hosting/installation of the Customer Software on the Hosting System (in each case in accordance with the Hosting Specification) (iii) the availability of the Helpdesk Service provided by K3, in accordance with the Agreement and (iv) any associated infrastructure management services as may be set out on the Order Form.

**Protection Tier:** the tier of protection associated with the Hosting Services (such tiers as further set out in the Appendix to these Product Terms) selected by the Customer, as set out in the Order Form.

**SLA:** means the service level guidelines set out on the Order Form and/or the Support Handbook, as may be updated from time to time by K3 and notified to the Customer.

**Standard Hours:** means the standard support hours in respect of the Helpdesk Services as set out on the Order Form and/or in the Support Handbook, as may be updated from time to time by K3 and notified to the Customer.

**Support Handbook:** the support handbook issued from time to time by K3 relating to the Helpdesk Services, which includes helpdesk contact details and any applicable SLAs.

**Support Hours:** means the Standard Hours and/or the Extended Hours as applicable.

**User:** any user of the Hosting Services.

**1.3 Services**

(a) If stated on the Order Form, then (subject to payment of the Fees and the other terms of the Agreement) K3 shall provide the Hosting Services in accordance with the Agreement during the Term.

(b) K3 shall, where reasonably practicable, inform the Customer at least 72 hours' in advance of any scheduled maintenance to the Hosting System which is anticipated to impact the Hosting Services and shall use reasonable endeavours to schedule such maintenance outside of peak hours (09:00-17:30 (UK time) on Business Days).

**1.4 Helpdesk Services**

(a) The Helpdesk Service shall be provided in respect of the authorised number of Users as set out in the Order Form. Helpdesk Services shall be provided from the date set out in the Order Form or otherwise agreed in writing or, if no date is so set out or agreed, from the date the Hosting Services commence.

(b) K3 shall provide the Helpdesk Services during the Standard Hours, and if agreed expressly in writing on an Order Form the Extended Hours. Helpdesk Services for Extended Hours will only be available for Extended Hours Incidents.

(c) The Helpdesk Service is not, and is not intended as, a substitute for project management, consultancy or training, which do not form part of the Helpdesk Services.

**1.5 Helpdesk Support Request Procedure.** K3 support desk contact details are contained in the Support Handbook or are available on request. The Customer will provide K3 with all reasonably requested information about the issue including contact details of the caller and the user experiencing the issue. An issue (and the SLA) will be paused if K3 cannot contact the person requesting support (or another person with sufficient knowledge of the issue).

**1.6 First line support:** First line support will be provided and managed by the Customer, unless stated otherwise on the Order Form. Such first line support will receive and log incoming user support requests. The Customer's first line support must have a general understanding of the hardware, software, architecture and infrastructure and should be able to resolve a substantial majority of issues logged.

**1.7 Helpdesk Services SLA**

(a) Details of K3's target SLA for responses and fixes in respect of the Helpdesk Services shall be provided to the Customer. Any SLAs are targets only and do not constitute a guaranteed service level. Whilst K3 shall use reasonable endeavours to meet the targets, failure to do so shall not, of itself, constitute a breach of the Agreement or a default on the part of K3. No service credits shall be payable for failure to meet these SLAs.

(b) The target SLAs only apply after full deployment of the Hosting System and Hosting Services and the use of the Customer Software by the Customer in a live environment.

(c) Calls have a response target and a fix/workaround target. Unless stated otherwise in the Support Handbook, for the purpose of calculating response or resolution times, the clock shall stop for the purpose of SLAs to the extent K3 refers the issue on to a third party supplier or licensor (rather than K3), until a resolution is received from that third party. The fix time frame starts from the end of response time frame. A fix occurs when K3 contacts the Customer whether or not the person reporting the call is aware that a fix or workaround has been delivered.

(d) SLAs may require the qualification of support incidents into different priority categories, dependent upon the seriousness of the issues and/or consequences. Such categorisation shall be the responsibility of K3 and K3 shall take into consideration the facts provided to it by the Customer in respect of the relevant incident and will act reasonably in assigning a priority to incidents.

**1.8** The Customer acknowledges and agrees that (i) no software or hardware or related infrastructure is perfect or error free, and that despite its commercially reasonable efforts, K3 may be unable to provide answers to or resolve some or all requests for Support, and any answers or resolutions may not be within the above timescales targeted; (ii) efficient use and operation of Products may be dependent on (a) the Customer installing applicable upgrades and enhancements and provisioning sufficient end user training; and (b) the volume of data being processed on or using the Products.

**1.9 Customer's Obligations.** The Customer shall:

(a) ensure that Users comply with the Agreement in relation to their use of the Hosting Services or Hosting System;

(b) ensure and be responsible for the accuracy, integrity, legality, reliability, and appropriateness of all Customer Data;

(c) (unless stated to be provided by K3 on the Order Form) provide an internal first line support helpdesk for faults or issues relating to the Hosting Services or Hosting System;

(d) be entirely responsible for all activities conducted and charges incurred under its passwords and user names whether authorised by it or not;

(e) comply with any reasonable security policy and acceptable use policy notified to it by K3 from time to time.

**1.10 Customer Data**

(a) The Customer shall indemnify K3 against all claims (including, without limitation, from Microsoft), costs, damages, losses, liabilities and expenses arising as a result of (a) any action or claim that any Customer Data or other material posted to, or linked to, the Customer Software or transmitted or hosted via the Hosting Services constitutes Inappropriate Content, or (b) the Customer's use or misuse of any of the Hosting Services.

**1.11 Suspension or Termination of Services**

(a) K3 may suspend the Hosting Services without liability if:  
 (i) Customer is in breach of any security policy or acceptable use policy notified to Customer by K3 from time to time or there is some other event of unauthorised use of the Hosting Services;  
 (ii) there is an event or circumstance for which K3 reasonably believes that the suspension of the Hosting Services is necessary to protect the K3 network, K3's other customers or some or all of K3's services generally or there appears in K3's reasonable opinion a significant legal, operational or security risk;  
 (iii) K3 is required (or reasonably believes that it is required) to suspend the Hosting Services by law or a regulatory or government body.

(b) K3 will provide the Customer with as much advance warning of any suspension of Hosting Services as is reasonably possible in the circumstances, although the Customer acknowledges that advance warning may not be possible if immediate suspension is required.

**1.12 Consequences of Termination of Services** Upon termination of the Hosting Services (subject to (in respect of personal data) K3's obligations under Condition 14 of the General Terms and Conditions) K3 may destroy or otherwise dispose of any Customer Data in its possession unless K3 receives, no later than the effective date of termination or expiry of the Hosting Services, a written request from the Customer for the most recent backup of the Customer Data. K3 shall use reasonable commercial efforts to deliver the backup to the Customer within 30 days of receipt of such request, provided that the Customer has, at the time, paid all Fees and charges outstanding as at and resulting from termination (whether or not due at the date of termination). The Customer shall pay (and in advance if required by K3) on a time and materials basis (plus expenses) for all effort incurred by K3 in returning or disposing of Customer Data.

**1.13** K3's sole and exclusive liability (and the Customer's sole and exclusive remedy) in respect of any loss, damage or corruption to data to the extent caused solely by K3 default (whether by negligence or breach of the Agreement) and solely in connection with the Hosting Services shall be limited to restoring such data to the last available back-up.

**1.14 Excluded Causes:** In addition to the Excluded Causes under Condition 12.2 of the General Terms and Conditions, K3 shall not be liable for any delay or failure to perform the Agreement (including the Hosting Services and Helpdesk Services) to the extent caused or contributed to by, and the Hosting Services do not include any service or requirement to the extent that such service or requirement is, or arises as a result of:

- (a) scheduled maintenance relating to the Hosting System or affecting the Hosting Services;
- (b) issues arising from use of the Customer's equipment or connection services that are not managed by K3 including but not limited to any failure or issue with the Customer's routers, which are the responsibility of the Customer;
- (c) archives or backups of the servers, databases, file folders and folder locations not specifically agreed in writing as forming part of the Services.

**2. APPENDIX TO HOSTING PRODUCT TERMS - PROTECTION TIERS**

**2.1** Where any servers are identified on the Order Form as having either platinum, gold, silver or bronze protection (as identified in the Order Form) that protection shall have the benefit of the relevant target service levels below. The below target service levels are targets only and do not constitute guaranteed service levels. Whilst K3 shall use reasonable endeavours to meet the targets, failure to do so shall not, of itself, constitute a breach of the Agreement or a default on the part of K3. No service credits shall be payable for

failure to meet these service levels. These service levels may be updated from time to time in the Support Handbook.

**2.2** For the purposes of the below Protection Tiers:

- (a) Recovery Point Objective or RPO means: the target maximum age of files recovered.
- (b) Recovery Time Objective or RTO means: the target maximum time to recover files.
- (c) Snap-Shots are: temporary copies of the Customer's protected environment.
- (d) Back-ups are: complete data back up to second data centre of the servers, databases, file folders and folder locations agreed in writing by the parties as benefiting from back-up protection (and the frequency of such back-ups shall be as set out in the Order Form).
- (e) Restore is: data restoration to last available back-up.

**2.3 Platinum Protected** servers are subject to the following target service levels:

- (a) 1 hour RPO and 4 hour RTO
- (b) 1hr Snap-Shots
- (c) Scheduled file backup with 365 day retention
- (d) 24 file restore instances per annum included in the annual fixed price

**2.4 Gold Protected** servers are subject to the following target service levels:

- (a) 4 hour RPO and 4 hour RTO
- (b) 4hr Snap-Shots
- (c) Scheduled file backup with 90 day retention
- (d) 18 file restore instances per annum included in the annual fixed price

**2.5 Silver Protected** servers are subject to the following target service levels:

- (a) 12 hour RPO and 12 hour RTO
- (b) 4hr Snap-Shots
- (c) Scheduled file backup with 60 day retention
- (d) 18 file restore instances per annum included in the annual fixed price

**2.6 Bronze Protected** servers are subject to the following target service levels:

- (a) 24 hour RPO and 24 hour RTO
- (b) Daily Snap-Shots
- (c) Scheduled file backup with a 30 day retention
- 12 file restore instances per annum included in the annual fixed price