

Terms and Conditions for use of the Recording Service

INTRODUCTION

1. JANET(UK) agrees to provide to the Customer the JVCRS subject to these Terms.

DEFINITIONS

2. ?Authorised Booker? is a person authorised by the Customer to book JVCS conferences on behalf of the Customer using the JVCRS; such person(s) as notified by the Customer to JANET(UK) from time to time in writing.

3. ?Commencement Date? is the date on which these Terms have been signed by both JANET(UK) and the Customer.

4. ?Customer? is the organisation that registers to use the JVCRS and that subsequently, through its Authorised Booker, records conferences using the JVCRS.

5. ?JANET Acceptable Use Policy? means the acceptable use policy as appears on the JANET Website as amended from time to time.

6. ?JANET Security Policy? means the security policy as appears on the JANET Website as amended from time to time.

7. ?JANET(UK)? is The JNT ASSOCIATION (Company Number 2881024) whose registered office is at Lumen House, Library Avenue, Harwell Science and Innovation Campus, Didcot, Oxon, OX11 0SG and which trades as JANET(UK).

8. ?JANET Website? means www.ja.net ^[1].

9. ?JVCRS? is the JANET Videoconferencing Recording Service as described at clause 16.

10. ?JVCS? is the JANET Videoconference Service as detailed on the JANET Website.

11. ?Storage Period? is the fixed period of time during which recordings will be stored by JANET(UK), currently fixed at two weeks but may be amended by JANET(UK) from time to time. The Storage Period for each recording will commence at the start time of the conference that is recorded.

12. ?Terms for the Provision of the JANET Service? are the terms included in the document of the same name (reference CONREF1001) on the JANET Website as amended from time to time.

TERMS

Term:

13. These Terms come into force on the Commencement Date. These Terms will continue up to (and including) the following 31 July and will thereafter be renewed automatically on an annual basis on 1 August each year, unless terminated in accordance with Clause 32 or 33.

Charges:

14. There is at present, no charge for the use of the JVCRS facilities to Customers who are eligible to use the JVCS. If this policy changes, the Customer will be advised no less than three months in advance.

Description of the JVCRS

15. The JVCRS comprises hardware and software to enable the Authorised Booker who books a conference provided through the JVCS to request that a recording of the conference be made. The Authorised Booker will be the only user able to download their recording during the Storage Period.

Customer's Responsibilities:

16. The Customer must ensure that its use of the JVCRS complies with the JANET Acceptable Use Policy and the JANET Security Policy.

17. The Customer is bound by the Terms for the Provision of the JANET Service (dated 21st August 2007), except for its clauses 29 and 38, which shall not apply).

18. The Customer acknowledges that all recordings its Authorised Bookers may make using the JVCRS remain the property of the Customer.

19. The Customer also acknowledges that it remains the data controller, responsible for compliance with the Data Protection Act 1998, in respect of any personal data that may be contained in its recordings. (See Note 1)

20. The Customer grants JANET(UK) the right to create and store the recording, and to otherwise perform the JVCRS, as instructed by its Authorised Bookers.

21. The Customer warrants that in performing the JVCRS as instructed, JANET(UK) will not infringe any third party intellectual property, or breach any data protection legislation or rights of privacy of any individual; in particular the Customer warrants that informed consent to recording has been obtained for all participants in recorded conferences. (See Note 2)

22. The Customer shall indemnify JANET(UK) against all liabilities, costs, expenses, damages and losses (including any direct or indirect consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by JANET(UK) arising out of or in connection with the provision of the JVCRS to the Customer.

23. The Customer acknowledges that each recording will be deleted from the JVCRS at the end of the Storage Period. If the Customer wishes to retain a copy of the recording then it must download a copy within the Storage Period. The Customer acknowledges that JANET(UK) may retain recordings for longer than the Storage Period if necessary for the purposes of Clauses 25 and 26.

Acceptable Use:

24. The Customer will ensure that use of the JVCRS by participants in conferences organised by its Authorised Bookers, including participants who may not be directly connected to the JANET network, is in accordance with the JANET Acceptable Use Policy.

25. JANET(UK) will not monitor or review conferences or recordings as a matter of course, but may do so where it has reason to believe either that there is a fault or problem relating to the JVCRS (or a particular conference or recording thereof), or that the JVCRS has been misused.

26. Where JANET(UK) has been informed, or otherwise has reason to believe, that a recording breaches the JANET Acceptable Use Policy, the law or the rights of any third party, it may immediately suspend access to the recording or remove it from the JVCRS. JANET(UK) will inform the Customer as soon as possible of any such suspension of access or removal of material.

Audit/Monitoring

27. The Customer shall permit JANET(UK) to carry out audits of, and/or otherwise monitor, the Customer's procedures for the obtaining of informed consents from conference participants to the recording of a videoconference in accordance with these Terms. If, in its reasonable opinion, JANET(UK) determines that such procedures are not satisfactory, JANET(UK) will notify the Customer of the same in writing. Within 30 days of such notice the Customer shall amend its procedures to a form satisfactory to JANET(UK) (acting reasonably). If the Customer fails to do so, JANET(UK) may terminate this Agreement.

Data Protection and Privacy:

28. In respect of any personal data that may be contained within recordings, JANET(UK) will act as data processor on behalf of the Customer. JANET(UK) will only process such personal data as it is directed to by the Customer and comply with equivalent obligations to those imposed on the Customer by the seventh principle of the Data Protection Act 1998..

29. JANET(UK) will use appropriate technical and organisational measures to protect the confidentiality of recordings and to ensure that they are only made available to the Authorised Booker.

30. The Customer will ensure that it only authorises as Authorised Bookers, staff who are properly entitled to book recordings, and that the usernames and passwords used by Authorised Bookers are not shared or used by others.

Order of Precedence:

31. Should there be any conflict or inconsistency between the provisions of these Terms and the provisions of the other documents referred to in these Terms, then the following order of descending precedence shall be applied: first, these Terms; second, the Terms for the Provision of the JANET Service; third, the JANET Security Policy; and fourth, the JANET Acceptable Use Policy.

Termination:

32. The Customer may terminate this Agreement at any time by making a written request to JANET(UK), given on the Customer's headed notepaper. JANET(UK) may terminate this Agreement at any time by giving at least three (3) months' written notice to the Customer.

33. JANET(UK) may, by giving written notice to the Customer, terminate these Terms with immediate effect:

- a. if the Customer commits a breach of these Terms, the JANET Acceptable Use Policy, the JANET Security Policy or the Terms for the Provision of the JANET Service, which is not capable of remedy; or
- b. if the Customer commits a breach of these Terms, the JANET Acceptable Use Policy, the JANET Security Policy or the Terms for the Provision of the JANET Service, which is capable of remedy but is not remedied within thirty (30) days of receipt of written notice from JANET(UK) specifying the breach and requesting remedy; or
- c. if the Customer is unable to pay its debts within the meaning of Section 123 of the Insolvency Act, or if it has a receiver or administrative receiver appointed over all or any part of its business or assets, or it passes a resolution for winding-up, or it enters into any voluntary arrangement with its creditors, or if any similar process to any of the above is begun in any jurisdiction or if it ceases or threatens to cease to carry on business; or
- d. if an event as envisaged by Clause 40 below continues for a period of 3 months or more; or
- e. if JANET(UK)'s agreement with its service supplier for the provision and receipt of the JVCS is terminated for any reason; or
- f. pursuant to Clause 27.

General

34. All notices which are required to be given under these Terms must be in writing and must be sent by first class prepaid letter or by facsimile transmission to the address of the intended recipient set out in Clause 44 (or such other address which the recipient designate by notice given in accordance with this Clause 34). Notice shall be deemed to be served 48 hours after posting (if sent by first class post) or when dispatched (if sent by facsimile transmission).

35. No third party is entitled to the benefit of these Terms under the Contracts (Rights of Third Parties) Act 1999. The right of either party to vary or terminate these Terms shall not be subject to the consent of any third party. No variation of these Terms shall be effective unless it is in writing and signed by the parties

36. These Terms constitute the entire agreement between the parties in respect of the JVCRS and supersedes all other agreements, arrangements and understandings between the parties in respect of such subject matter.

37. JANET(UK) reserves the right to amend these Terms, the JANET Connection Policy, the JANET Acceptable Use Policy, the Terms for the Provision of the JANET Service and the JANET Security Policy from time to time, and the amended Terms or policies (as appropriate) shall be available to the Customer on the JANET website.

38. These Terms are governed by the laws of England and Wales and the English and Welsh Courts will have exclusive jurisdiction to deal with any dispute which may arise out of or in connection with these Terms.

39. No failure or delay by a party to exercise any right or remedy provided under these Terms or by law shall constitute a waiver of that or any other right or remedy, nor shall it preclude 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.

40. A party, shall not be in breach of these Terms, nor liable for any failure or delay in performance of any obligations under these Terms arising from or attributable to acts, events, omissions or accidents beyond its reasonable control.

41. Nothing in these Terms is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, nor authorise any party to make or enter into any commitments for or on behalf of any other party.

42. These Terms constitute the whole agreement between the parties and supersedes all previous agreements between the parties relating to its subject matter. Each party acknowledges that, in entering into these Terms, it has not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly set out in these Terms. Nothing in this clause shall limit or exclude any liability for fraud.

43. If any provision of these Terms (or part of any provision) is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part provision shall, to the extent required, be deemed not to form part of these Terms, and the validity and enforceability of the other provisions of these Terms shall not be affected.

Notices

44. Notices should be sent to the following addresses/numbers:

Notices to JANET(UK)

JANET Service Desk

JANET(UK),

Lumen House, Library Avenue, Harwell Science and Innovation Campus, Didcot, Oxfordshire, OX11 0SG

Fax: 0870 850 2213

Notices to the Customer

Name

Address

Email Address

Tel:

Fax:

Limitation of Liability

45. These Clauses 45 to 48, set out the entire financial liability of JANET(UK) (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:

(a) any breach of these Terms; (b) any use made by the Customer of the JVCRS; and (c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with these Terms.

46. Except as expressly and specifically provided in these Terms all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from these Terms.

47. Nothing in this agreement excludes the liability of JANET(UK): (a) for death or personal injury caused by JANET(UK) negligence; or (b) for fraud or fraudulent misrepresentation.

48. Subject to Clause 47:

(a) JANET(UK) shall not be liable for any loss of profits, loss of business, depletion of goodwill and/or similar losses or pure economic loss, or for any special, indirect or consequential loss costs, damages, charges or expenses however arising; and

(b) JANET(UK)'s total aggregate liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the

performance or contemplated performance of these Terms shall be limited to £100,000.

Explanatory Notes

1. Note that, since the visibility or audibility of any individual in a recording may constitute personal data, this responsibility is likely to cover individual data subjects who are not members of the Customer's organisation.

2. The Customer is responsible for ensuring that the making and reuse of the recording are lawful and do not infringe the rights of any participant or any other third party. Note that any participant in a conference may, under the laws of England and Wales, possess intellectual property rights in their contribution to the conference. These rights, as well as rights under data protection and privacy law, are likely to apply separately to the making and the viewing of a recording and to the participant's presence in the original conference. Legal advice may be necessary to determine the appropriate form of consent and rights clearance for any particular conference or recording.

AS WITNESS the authorised signatories for the Parties:

Signed for and on behalf of THE JNT ASSOCIATION

Signature:

Name:

Position:

Date:

Signed for and on behalf of ?Organisation Name Here?

Signature:

Name: ?????..??.....

Position: ??????????????????

Date:

Source URL: <https://community.jisc.ac.uk/library/janet-services-documentation/terms-and-conditions-use-recording-service>

Links

[1] <http://www.ja.net>