

## **APPENDIX 1**

### **LUNS TERMS AND CONDITIONS**

#### **1. THE SERVICE**

- 1.1 The service provider will provide a service comprising:
  - a) High-speed connectivity services, as specified at Schedule 2.
  - b) Support services as specified at Schedule 4.
- 1.2 The service will be provided at the location specified in Schedule 2.

#### **2. THE AGREEMENT**

- 2.1 The agreement will commence as set out in Schedule 3 subject to receipt by the service provider of the original of this agreement, plus a duplicate copy, duly signed by an authorised representative the customer and counter-signed by an authorised representative of LUNS.
- 2.2 Both parties will have the option to assert their rights under the agreement at any time, during or beyond the term of the agreement.
- 2.3 The agreement is governed by English Law and both parties accept the exclusive jurisdiction of the English courts.

#### **3. SERVICE INSTALLATION**

- 3.1 Provision of the service is subject to a completed and successful site survey at the specified location and confirmation that, if an existing service exists, it can be maintained and that the engineering requirement is limited to the standard service provision. The service provider reserves the right to amend the charges specified in Schedule 3 if, following a site survey, additional engineering is required. The service provider will inform the customer in advance of installation if, in its sole view, it cannot provide the service.

#### **4. CHARGES**

- 4.1 The customer will pay the charges set out at Schedule 3 for the service.
- 4.2 Regular payments shall be made as specified in Schedule 3.
- 4.3 Payment is due from the date of service connection or re-connection as stipulated in Schedule 3.
- 4.4 The customer will pay all charges for the service, whatever use is made of it by whomever.
- 4.5 In the event that payment of charges falls overdue, the service provider reserves the right to charge interest equal to 4% per annum above the National Westminster Bank plc Base Rate compounded monthly on outstanding amounts both before and after any judgement in law.

**5. TERMINATION**

- 5.1 The agreement may be terminated at any time after provision of the service has commenced by either party giving three months' notice in writing to the other.
- 5.2 The minimum term of the agreement is specified in Schedule 2.
- 5.3 If the customer terminates the agreement before the expiry of the minimum term, it will pay an early termination charge unless clause 8.5 applies. The early termination charge is equal to the total of the monthly rental fees from the date of termination to the end of the minimum term specified in Schedule 2.
- 5.4 If the service provider terminates the agreement before the expiry of the minimum term, it will refund any payments already made by the customer in respect of the monthly rental fees from the date of termination to the end of the minimum term specified in Schedule 2.
- 5.5 The customer may cancel this agreement in advance of commencement of service provision in which event the customer will be liable for all past and future costs incurred by the supplier to deliver the cancelled service. If any equipment has been installed at the customer's premises then it shall be recovered pursuant to clause 6.8.
- 5.6 On termination of the agreement the service provider will pay back to the customer any money owed to it, having first deducted any money owed to the service provider by the customer under this or any other agreement currently operating between the two parties.

**6. SERVICE PROVISION**

- 6.1 The service to be provided is specified in Schedule 2.
- 6.2 The service provider will support the use of the service by the customer through the operation of a helpdesk as set out in Schedule 4.
- 6.3 The service provider normally will take instructions from nominated authorised representatives of the customer in delivering its service but may also take instructions from other people who it considers, with good reason, are acting with the customer's permission.
- 6.4 The customer will follow any reasonable instructions given by the service provider in respect of the use and management of the service, including giving the service provider reasonable access to the customer's premises.
- 6.5 The customer will obtain any permission needed from third parties to enable the service provider to cross their land or put equipment on their premises for reasonable purposes to deliver the service.
- 6.6 The customer will take reasonable care of any of the service provider's equipment situated on the customer's premises. Any damage to the said equipment resulting from failure to take reasonable care by the customer will be rectified at the customer's expense.

- 6.7** Ownership of any equipment installed to provide the service shall reside with the service provider or its sub-contractors for the duration of the agreement unless it is purchased by the customer or otherwise agreed in writing. All equipment owned by the service provider or its sub-contractors and located on the customer's premises will be insured for fire, theft and accidental damage by the service provider for the whole period it is located there and, should it fail to operate satisfactorily, shall be repaired or replaced at the service provider's expense.
- 6.8** At the end of the agreement the service provider will be entitled to recover equipment in its or its sub-contractors' ownership with the co-operation of the customer and, if that co-operation is not forthcoming, the service provider will be entitled to enter the customer's premises and repossess the equipment or claim from the customer the cost of replacement of the equipment, if damaged, with new equipment of a similar specification.

## **7. SERVICE USE**

- 7.1** The customer will take all reasonable steps to ensure that the service is not used:
- a)** In any way which is illegal or contravenes any licence or other rights or the service provider's Acceptable Use Policy at Schedule 1
  - b)** To send, knowingly receive, upload, download, or use any material in a way that is offensive, abusive, indecent, defamatory, obscene or menacing
  - c)** To annoy anyone or cause any inconvenience
  - d)** In any malicious way that adversely affects, or is likely to adversely affect, how the service provider provides its services to any of its customers.
- 7.2** If the service provider reasonably believes that any serious instances of misuse as set out in Clause 7.1 have occurred, it will notify the customer accordingly and agree an appropriate course of action with it. In exceptional circumstances the service provider may take immediate action to suspend the service or terminate the agreement without notice, even if the customer is not aware that the misuse has occurred.
- 7.3** The customer accepts that any content, software or other copyright material supplied to it by the service provider is supplied solely for the customer's own use and undertakes not to copy, change or publish any such material or supply it to any other party.
- 7.4** The customer will not to connect any equipment to the service provider's network:
- a)** Unless it bears the European Consumer Equipment Standards CE mark
  - b)** That may harm the network or other customers' equipment.
- 7.5** Neither party will assign this agreement to a third party, or try to do so, without the agreement of the other party, such agreement not to be unreasonably withheld or delayed.
- 7.6** The customer uses the service at its own risk. The service provider takes no responsibility for any goods, services, information, data, software or other materials acquired by the customer when using the service. The customer and its

end-users are responsible for making sure that all computers connected to the network are adequately protected against viruses and other malicious software.

## **8. CHANGES TO THE AGREEMENT**

- 8.1** If the service provider needs to change the terms and conditions of the agreement, three months' notice will be given to the customer.
- 8.2** Changes in order to meet legal and statutory requirements may need to be implemented by the service provider with little or no notice and without agreement by the customer.
- 8.3** In respect of other changes, the service provider will seek the agreement of the customer before implementing them.
- 8.4** Changes to the charges set out in Schedule 3 will not be made within the minimum term of the agreement without the express agreement of the customer. At least three months before the end of the minimum term of the agreement, the service provider and the customer will review the agreement and agree charges for a further minimum term, the duration of which will be agreed at the time.
- 8.5** If any change imposed by the service provider places the customer at a significant disadvantage the customer will have the option to terminate the agreement early without incurring the termination charges set out in clause 5.3.

## **9. SERVICE INTERRUPTIONS**

- 9.1** Occasionally, for operational reasons it will become necessary for the service provider to interrupt the service or to change the technical specifications of the service. In that event, the service provider will give maximum advance notice to the customer and restore any interrupted service with the minimum delay.
- 9.2** The customer will notify the service provider of any service interruption of which it is aware with the minimum delay using the facilities detailed in Schedule 4.

## **10. MOVING PREMISES**

- 10.1** In the event that the customer moves to new premises, the service provider will continue to provide the service subject to technical feasibility and payment by the customer of the standard connection fee at the new location.
- 10.2** If the service provider is unable to provide a service at the customer's new premises, the agreement will be terminated and the standard termination terms and termination charges will apply.

## **11. LIMITATIONS OF THE SERVICE PROVIDER'S RESPONSIBILITIES**

- 11.1** The service provider will accept unlimited responsibility if the customer or any of its end-users are injured or die as a result of the service provider's negligence.
- 11.2** The service provider will accept responsibility for loss or damage to the physical property of the customer or its end-users directly arising from the service

provider's negligence up to a limit of £1 million in any 12-month period for this loss or damage.

- 11.3 While aiming to provide a continuous, high-quality service, the service provider cannot guarantee that the service will never fail. In the event that the customer suffers a continuous total loss of the service at any time after the service has commenced the service provider undertakes to rectify faults as soon as possible and within the timescales indicated in the Schedule 4, which also details any service credits or refunds that may apply. The customer will not be entitled to such a refund if the service failure is due to faulty equipment not supplied by the service provider or actions by parties other than the service provider.
- 11.4 The customer will be responsible for claiming a refund which, if accepted, will be deducted from the next monthly invoice issued by the service provider.
- 11.5 Other than when the service provider is negligent, its only obligation to compensate the customer under the agreement is to refund rental charges as described in Clause 11.3.
- 11.6 The service provider will have no obligation to compensate the customer or its end-users for data being lost or corrupted, or for any loss of profits, opportunity, contracts, time, goodwill, reputation, business, revenue, or savings.

## **12. CONTRAVENTION OF THE AGREEMENT BY THE CUSTOMER**

- 12.1 In the event that the customer contravenes the agreement, other than in respect of serious misuse as described in clause 7.1, the service provider will normally alert the customer to the event and provide an opportunity to put matters right within a reasonable time.
- 12.2 In the event that the customer fails to do so, the service provider may suspend the service or terminate the agreement. It may also suspend the service or terminate the agreement if the customer contravenes any other agreement it has with the service provider and does not put matters right within a reasonable time. If the service is suspended the service provider will agree with the customer the steps to be taken in order for the situation to be rectified and the service restored.
- 12.3 In the event that charges remain unpaid by the customer, the service provider will normally not suspend the service or terminate the agreement until 28 days after the payment was due. However, in exceptional circumstances such action may be taken immediately.
- 12.4 The service provider reserves the right to suspend the service or terminate the agreement immediately if the customer (but not any individual end-users) is the subject of bankruptcy or insolvency proceedings, or an arrangement with creditors is made, or a receiver or administrator is appointed over any of the customer's assets, or the customer goes into liquidation (except for amalgamation or reconstruction while solvent and in such manner that LUNS has consented to such amalgamation or reconstructed company being bound by this agreement) or the customer has been the subject of a petition for compulsory winding up.

**13. MATTERS BEYOND THE REASONABLE CONTROL OF THE SERVICE PROVIDER**

- 13.1** There are occasions when the service provider may be unable to meet its obligations because of something beyond its reasonable control ("force majeure"). Such occasions include (without limitation): act of God, insurrection or civil disorder, war, military operations, national or local emergency, acts or omissions of government, highway authority or other competent authority, industrial dispute of any kind (whether or not involving either party's employees), fire, lightning, flood, subsidence, inclement weather, acts or omissions of person or bodies for whom neither party (as the case may be) is responsible. On such occasions, the service provider does not accept responsibility for any adverse consequences.
- 13.2** If such circumstances continue for more than 28 days, the customer has the option to terminate the agreement immediately by giving the service provider written notice. If the events continue for more than three months, the service provider has the option to terminate the agreement immediately by giving the customer written notice. For the period of non-service during force majeure, no charges will be made. If this period exceeds 3 months either party has the option to terminate this agreement with no penalty charge and the equipment owned by the service provider will be returned to it at no additional charge to the customer.

**14. RESOLVING DISPUTES**

- 14.1** Both parties will make every endeavour to resolve any disputes that arise. In the event that a dispute remains unresolved, either party has the option to refer the matter to a relevant dispute resolution service such as the Communications and Internet Services Adjudication Scheme (CISAS).

**15. SERVICE OF NOTICE**

- 15.1** Any notice to be served on either party by the other shall be in writing and delivered by hand or prepaid post to the addressee as follows:
- a)** To the customer: as stated in Schedule 3 or any subsequent customer address as advised, in writing, by the customer to the service provider
  - b)** To LUNS (the service provider): LUNS Ltd, ISS Building, Lancaster University, Lancaster, Lancashire LA1 4WA.

## SCHEDULE 1 - ACCEPTABLE USE POLICY

The LUNS service may not be used for any of the following:

- a) The creation or dissemination (other than for properly supervised and lawful purposes) of any offensive, obscene or indecent images, data or other material.
- b) The creation or dissemination of material, which is designed or likely to cause annoyance, inconvenience or needless anxiety.
- c) The dissemination of material such that this infringes the copyright of another person.
- d) The dissemination of unsolicited commercial or advertising material either to other LUNS customers, or to organisations connected to other networks, save where that material is embedded within, or is otherwise part of, a service to which the member of the organisation has chosen to subscribe.
- e) Deliberate unauthorised access to facilities or services accessible via the LUNS service.
- f) Deliberate activities with any of the following characteristics:
- g) Wasting staff effort or networked resources, including time on end systems accessible via the LUNS service and the effort of staff involved in the support of those systems
  - i) Corrupting or destroying other LUNS customers' data;
  - ii) Violating the privacy of other LUNS customers;
  - iii) Disrupting the work of other LUNS customers;
  - iv) Using the LUNS service in a way that denies service to other users;
  - v) Continuing to use an item of networking software or hardware after LUNS has requested that use cease because it is causing disruption to the correct functioning of the LUNS service;
  - vi) Other misuse of the LUNS service or networked resources, such as the introduction of "viruses".
- h) Where LUNS is being used to access another service, any abuse of the acceptable use policy of that service will be regarded as unacceptable use of the LUNS service.

Public sector connections may be routed through the JANET (UK) network and therefore the JANET Acceptable Use Policy applies in addition to the above. A current version of the JANET AUP can be downloaded from:

<http://www.ja.net/company/policies/aup.html>

## APPENDIX 2

### LUNS SLA

# **Lancaster University Network Services Limited Service Level Agreement for Ethernet Services**

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## 1. Definitions and Interpretations

The terms and expressions set out in this Service Level Agreement shall have the same meanings ascribed to them as in the General Terms and Conditions.

<b>Acceptable Usage Policy</b>	The schedule which defines the bounds within which the Service may be used by the Customer.
<b>Customer</b>	Entity requesting a Service from LUNS Ltd.
<b>Customer Agreement</b>	A signed contract between LUNS Ltd. and the Customer outlining the basis on which the Service is to be provided by LUNS Ltd.
<b>Emergency Maintenance:</b>	Service-affecting maintenance for an identified purpose that is required to be carried out on a Service in cases of extreme urgency where two weeks' notice is not possible.
<b>IP:</b>	Internet Protocol version 4 or version 6 (IPv4 or IPv6) or a combination of the two unless otherwise stated.
<b>LUNS CMC</b>	LUNS Customer Management Centre.
<b>LUNS Ltd.</b>	Lancaster University Network Services Ltd. A wholly owned subsidiary company of Lancaster University.
<b>LUNS Terms and Conditions:</b>	The terms for the provision of the LUNS Network Connectivity service maintained by LUNS Ltd.
<b>Network Accessibility:</b>	<p>An organisation will be considered inaccessible if:</p> <ul style="list-style-type: none"><li>a) it is not possible to both transmit and receive between the organisation and a measuring point on the LUNS backbone network for a period in excess of 60 seconds; or</li><li>b) the performance of the path between the organisation and the measuring point on the LUNS backbone network is severely degraded to an extent that the service is effectively unavailable (severe degradation occurs where in excess of 60% of all packets transmitted on the path are lost for a period of more than 5 minutes); or</li><li>c) the Round Trip Time (RTT) for a 128 byte packet sent between an organisation and the nearest point on the LUNS backbone network exceeds 30ms for 95% of packets over a 30 minute period.</li></ul> <p>The performance of a link (in terms of packet loss and RTT) is closely related to loading. No guarantees on performance can be given for a link that is acknowledged to be overloaded.</p>
<b>Network Availability:</b>	<p>The organisation's Network Accessibility removing:</p> <ul style="list-style-type: none"><li>a) all periods of inaccessibility that result from Scheduled Maintenance and Emergency Maintenance;</li><li>b) all periods of inaccessibility that result from events local to the organisation, such as site power failures; and</li><li>c) all periods of inaccessibility which are designated Suspended</li></ul>

	Periods.
<b>Scheduled Maintenance</b>	Service-affecting maintenance carried out on a Service that has been published to organisations at least two weeks in advance.
<b>Service</b>	Any service to be provided by LUNS Ltd. as defined in the Service Description.
<b>Service Credit</b>	A monetary value payable to the customer in the event of a breach of agreed service levels by the supplier.
<b>Service Time</b>	The time during which continuously available services are expected to be available which is 365 (366) days a year and 24 hours a day.
<b>Supplier</b>	The Service delivering entity, LUNS Ltd.
<b>Suspended Periods</b>	<p>The period during which investigation of a fault or attempts to resolve a fault at a particular organisation by LUNS Ltd. or its agents is frustrated by the absence of needed assistance from that organisation or its agents even though LUNS Ltd. has continued to make reasonable efforts to obtain the assistance.</p> <p>A Suspended Period is considered a lack of Network Accessibility, but not of Network Availability.</p>
<b>Third Party</b>	Any individual or organisation not directly connected with the Customer, Supplier or end-user.
<b>Working Day</b>	<p>Monday to Friday excluding:</p> <p>Christmas Day Boxing Day New Year's Day Good Friday First Monday in May Last Monday in May</p> <p>Additionally the substitute days that are appointed in lieu by Royal Proclamation when any of the above days fall on a Saturday or Sunday.</p>
<b>Working Hours</b>	The period from 09:00 to 17:30 on Working Days.

## 2. Service

LUNS Ltd. provides a domestic and global unicast IP service for connectivity to the LUNS backbone network via IPv4 (& IPv6 on request) to be available on a continuous basis.

## 3. Service Level

- a. Network Availability of the IP Service of 99.5% from each organization to the measurement point on the LUNS backbone network.

- b. Time to restore Service to an organization (duration of period of unavailability) of less than 8 working hours for each fault.
- c. The network backbone will not prevent continuous Network Availability for organizations to send and receive IP packets between organizations and to the external networks to which LUNS is connected.

#### 4. Scope of this Agreement

These 'Network Connectivity' Service specific Terms and Conditions are to be read in addition to LUNS Limited's General Terms and Conditions. Where any clauses conflict with the General Terms and Conditions the clauses in this document shall take precedence, otherwise they are complimentary.

#### 5. Response

The service is defined as being available when traffic is able to pass in both directions in accordance Service Description and associated Service Levels.

The Supplier commits to responding to every properly reported fault within one working hour of notification to the LUNS CMC.

The Supplier commits to repairing any properly notified faults within 8 working hours of notification to the LUNS CMC. For every hour that the Service is not repaired beyond the stated 8 working hour repair time the Customer shall be entitled to a Service Credit of 10% of the relevant individual Service's monthly rental.

If an outage occurs, Service Credits for unavailability can be requested for the affected service by contacting the LUNS CMC in the first instance. Customers in breach of their Customer Agreement, including payment obligations and Acceptable Usage Policy, are ineligible to receive credits.

The customer must request Service Credits within 30 days of the last day of the month in which the SLA breach occurred.

#### 6. Specific Exclusion

The following items (which are not exhaustive) will either temporarily 'stop the clock' for the purposes of the Service Level Guarantee or prevent payment of compensation:

- The Supplier or its contractors are unable to gain access to the end user premises or carry out any work;
- Customer fails to respond in a timely fashion to an enquiry from the Supplier;
- Customer fails to accept first appointment offered by the Supplier;

- There is action by the Customer, end user or a third party which prevents the Supplier from completing its obligations;
- There is Scheduled or Emergency Maintenance service interruption;
- The fault is the subject of an inaccurate fault report;
- The fault is due to Force Majeure

## 7. Compensation Caps

Total service credits for any single SLA breach shall not exceed 20% of the total monthly charge for the service concerned.

Service Credits in any month shall not exceed the total monthly charge for the service concerned regardless of the number of faults in a given month.

## 8. Scheduled Downtime

The Company may suspend the Service from time to time for necessary technical reasons and network upgrades. Scheduled Maintenance will be published to a designated contact at organizations with at least 2 weeks advance notice. In extreme circumstances where a loss of Service is likely without intervention, emergency maintenance for an identified purpose may be carried out where two weeks' notice is not possible.

## 9. Notification of Outages and Service Interruptions

An outage or service interruption event is defined when the Customer notifies LUNS Ltd. which will be carried out in the first instance by contacting the LUNS CMC as detailed in the Customer Agreement and then as per the escalation procedure detailed in **Error! Reference source not found.**

## 10. Escalation Procedure

If the Customer is at any time unhappy with the level of quality of support provided by the LUNS CMC or with any aspect of the Service, the escalation path below should be followed;

Escalation Level	Name	Position	Contact Number
1	Team Member	CMC Agent	01524 510510
2	Team Leader	CMC Team Leader	01524 510510
3	Miles Burke	Operations Manager	07812 583818