
CONTRACT TERMS AND CONDITIONS

1. DEFINITIONS

In these Conditions the following terms shall have the following meanings: -

Access Procedures: means the access procedures in relation to the Co-Location Services.

Ch Additional Arges: means Charges which may be made (in addition to the Annual Support Charge) for additional services supplied pursuant to Condition 6.3.3.

Annual Hosting Charge: means the charge payable by the Customer to the Company annually in advance for provision of the Hosting Services as set out in the Order Form.

Annual Support Charge: means the support charge for the Maintenance Services as set out on the Order Form.

Anti-Bribery Laws: means all statutes, statutory instruments, byelaws, orders, directives, treaties, decrees, and laws which relate to anti-bribery and/or anti-corruption, including the Bribery Act.

Bribery Act: means the Bribery Act 2010.

Broadband Acceptable Use Policy: means the Company's policy for the acceptable use of its broadband Service, the current version of which is available at www.dvad.co.uk (or at such other URL as is notified to the Customer by the Company from time to time)

Business Day: means all days from Monday to Friday (inclusive) in any week but excluding English bank holidays or public holidays.

Carrier: means the relevant third-party public telecommunications operator or third-party network service provider.

Charges: means the charges payable by the Customer to the Company for Services performed including without limitation the Annual Hosting Charge, the Annual Support Charge, and the Co-Location Charges.

Co-Location Charges: means the charges set out on the Order Form which are payable by the Customer to the Company in consideration for the provision of the Co-Location Services by the Company to the Customer.

Co-Location Services: means the co-location services more particularly detailed on the Order Form (as modified or substituted from time to time) to be provided hereunder by the Company to the Customer.

Co-Location Space: means the space within the Company's Facility for the installation of the Racks, IT Equipment, and associated cabling for the Customer.

Commencement Date: means the commencement date of the Minimum Term of the relevant Services being (as applicable) the Connection Date, the date of Delivery of the relevant Equipment or such other date as specified on the Order Form or as otherwise agreed in writing between the parties.

Company: means ACS Business Supplies a company registered in England and Wales with company registration number 06584936

Connection Date: means the date when the Carrier having received the relevant information from the Company is able to and has agreed to commence provision of the Data Network Services to the Customer Site or in the case of there being more than one Site, the earliest date such circumstance arises for any such Site.

Contract: means the agreement between the Customer and the Company for the provision of the Equipment and/or Services (or any of them) incorporating these Conditions, the Order Form, and any other Service Specific Conditions and/or Promotional Terms incorporated into the Contract in accordance with Condition 2.1.

Contractor: means any person who, on or prior to the Effective Date (and/or the transfer of such services to the Company), supplied services to the Customer which were the same as or like those provided or to be provided by the Company to the Customer under that Contract.

Customer: means the person, firm or company specified on the Order Form and any other person appearing to act within that person's, firms, or company's authority and includes where relevant the Customer's permitted assigns.

Data Network Services: means the network services more particularly detailed on the Order Form (as modified or substituted by the Company from time to time) to be provided hereunder by the Company to the Customer.

Delivery: means the point at which the Equipment arrives at the Customer's Site immediately prior to the unloading of such Equipment from the delivery vehicle and 'Delivered' shall be construed accordingly.

Effective Date: shall mean the date on which the Company signs the relevant Order and all Conditions precedent to the effectivity of the Contract have been satisfied.

Employee: means any employee, former employee, consultant, former consultant, contractor, former contractor, agent or former agent of the Customer or any Contractor or Subcontractor.

Employment Regulations: means any laws in any country in the world implementing the provisions of EC Directives No. 77/187 dated 14 February 1977, 2001/23 dated 12 March 2001 or equivalent or similar regulations that protect the rights of employees on a transfer of a business or undertaking or any laws providing for the automatic transfer of employees on transfer of the whole or part of an undertaking, business or service provision change, including in the United Kingdom the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or replaced from time to time;

Equipment: means the equipment and/or software related products to be supplied under the Contract as set out on the Order Form (and has extended meanings under Condition 5.3.2 and Condition 6 in the case of and for the purposes of those Conditions only).

Estimated Power Draw: means the estimated power draw for the Co-Location Services as specified on the Order Form.

Facility: means the data centre set out on the Order Form or such other data centre notified to the Customer from time to time by the Company.

General Conditions: means the general Conditions of entitlement set by OFCOM, in accordance with Section 45 of the Communications Act 2003, as may be amended, modified, or replaced from time to time.

Group: means together a person, its Parent Undertakings, its Subsidiary Undertakings, and the Subsidiary Undertakings of any of its Parent Undertakings from time to time; "Hosted Data" means the data which is hosted by the Company pursuant to the Hosting Services.

Hosting Services: means the hosting services more particularly detailed on the Order Form (as modified or substituted from time to time) to be provided hereunder by the Company to the Customer.

Installation: means the physical installation of Equipment at the Site.

Installation Services: means services for the installation of Equipment.

Intellectual Property Rights: means all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition, copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

IT Equipment: means including but not limited to telecommunications, server, tape library, storage or security equipment provided by or belonging to the Customer and/or any customer of the Customer.

Maintenance Services: means the maintenance services more particularly detailed on the Order Form (as modified or substituted from time to time) to be provided hereunder by the Company to the Customer.

Minimum Term: means the minimum term applying to each of the Services commencing on the Commencement Date and expiring on the day at the end of the minimum term set out on the Order Form or if no minimum term is stated on the Order Form, 36 months.

Normal Working Hours: means 9.00am to 5.30pm on any Business Day.

OFCOM: means the Office of Communications and/or any successor body.

Order Form: means the order form to which either (i) these Conditions are attached or (ii) which is expressed to be subject to these Conditions and which sets out the details of the order, including (without limitation) the Customer's details and the Equipment and/or Services to be supplied under the Contract.

Parent Undertaking: has the meaning given to it in section 1162 of the Companies Act 2006.

Personal Data: has the meaning given to it in Section 1 of the Data Protection Act 1998; "Portal" means the portal and/or any application programme interface with which the Customer is provided with access on these Conditions as part of the Services.

Price: means the price payable by the Customer for the Equipment and Installation Services (where applicable); **Promotional Terms:** means any additional terms which apply to the Price and/or Charges and which may be specified on the Order Form and/or notified by the Company in writing to the Customer in relation to the Equipment and/or Services, at the time the relevant Order Form was submitted.

Rack: means a single cabinet inclusive of rear distribution power strips, and rack mounts and is 600mm W x 1000mm D x (minimum) 42U in size.

Rate: of RPI means the retail price index percentage change over 12 months announced by the Office for National Statistics (or successor body) in the month preceding an RPI Increase.

Relevant Laws: means any statute, regulation, bylaw, ordinance or subordinate legislation which is in force for the time being to which a party is subject; the common law as applicable to the parties (or any one of them); any binding court order, judgment or decree applicable to the parties (or any one of them); and any applicable industry code, policy, guidance, standard or accreditation terms (i) enforceable by law which is in force, and/or (ii) stipulated by any regulatory authority to which a party is subject, in each case, for the time being;

Remote Hands and Eyes: means technical services which the Company agrees to provide to the Customer **Service(s):** means any of the services supplied by the Company and as set out on the Order Form including, without limitation, the Installation Services, the Data Network Services, the Co-Location Services, the Hosting Services, and the Maintenance Services (as applicable).

Service Specific Conditions: means any additional terms and Conditions which are to apply to the Contract as specified on the Order Form or these Conditions in respect of specific Services, for example (and without limitation) the Broadband Acceptable Use Policy (but excluding Promotional Terms).

Site: means any of the Customer's premises at which Data Network Services are to be performed.

Small Business Customer: means a Customer who has been identified on the Order Form as being a Customer who: (i) is not a communications provider; and (ii) has 10 or fewer workers (whether as employees or volunteers or otherwise).

Subcontractor: means any subcontractor of a Contractor.

Subscription Charges: means Charges payable by the Customer for the availability of the Data Network Services but excludes any Charges which are levied specifically for usage of the Services and which are as set out in the Tariff.

Subsidiary Undertaking: has the meaning given to it in section 1162 of the Companies Act 2006.

Tariff: means the Company's tariff for calculating Charges for each of the provided by the company.

2. CONTRACT INFORMATION

2.1 Once the quotation or order form has been signed and approved, this becomes the contract and constitutes the Customer's order to the Company to purchase the relevant Equipment and/or Services. A Contract shall come into force and bind both parties once:

The Customer's offer is accepted by an authorised representative of the Company signing the Quotation or Order Form.

The credit status of the Customer being to the satisfaction of the Company (in the Company's sole and absolute discretion); and

2.1.2 in respect of a Contract which provides for the supply of:

2.1.2.1 Equipment and/or Installation Services, (without limitation) the Conditions in Condition 4.1.1 being met; and/or

2.1.2.2 Data Network Services, (without limitation) the Conditions in Condition 5.1.1 being met.

2.2 All quotations, estimates and tenders are given, and contracts are made by the Company subject to and only upon the terms of the Contract which cannot be varied unless agreed in writing by the Company in accordance with Condition 19. These Conditions supersede all other terms, Conditions and warranties which are implied by law or which the Customer may purport to apply under any purchase order or acknowledgement of delivery or similar document or otherwise and/or which have been established between the Company and the Customer by course of dealing.

2.3 In the event of a conflict or inconsistency between any of the documents which constitute the Contract, the following descending order of precedence shall apply:

2.3.1 the Order Form.

2.3.2 any applicable Service Specific Conditions.

2.3.3 any applicable Promotional Terms.

2.3.4 the Conditions; then

2.3.5 any other documents referred to on the Order Form or in these Conditions. For the avoidance of doubt, the fact that the Promotional Terms are silent on a particular matter whereas any of these Conditions, the Order Form and/or the Service Specific Conditions make provision for the same, shall not be deemed to give rise to a conflict or inconsistency.

2.4 Any illustrations, samples or descriptive material provided by the Company, including drawings, specifications of weight, capacity or dimensions shall not form part of the Contract but shall be treated as approximate only unless specifically stated otherwise. Any savings quoted are estimates and illustrative only. All documents containing such illustrative or descriptive material (as well as the copyright therein) shall remain the exclusive property of the Company and must not be copied or loaned or transferred by the Customer. The Customer acknowledges and agrees that in entering the Contract, it has not relied on any such illustrations, samples, or descriptive material.

2.5 Each order for Equipment and/or Services (except in the case of Installation Services which will form part of the contract for the supply of Equipment) shall (for the purposes of this Condition 2.5) be deemed a separate Contract (whether or not included on the same Order Form) to the effect that any delay or failure to supply Equipment and/or Services shall not entitle the Customer (to the extent that any such entitlement exists) to terminate the Contract for other Equipment and/or Services or any other contract entered into under these Conditions.

2.6 Any undertaking by the Customer not to do any act or thing shall be deemed to include an undertaking that the Customer shall procure that any user of the Services and/or Equipment including (without limitation) any of the Customer's employees, agents, or contractor, shall not do such act or thing.

2.7 The Customer warrants and undertakes to the Company that it is entering into the Contract for the purposes of its trade, business and/or profession, and is not acting as a consumer.

3. CUSTOMER'S ORDER AND SPECIFICATIONS

3.1 The Customer shall be responsible for providing the Company with all information relevant to the supply of the Equipment and the provision of Services (as the case may be) within sufficient time to enable the Company to duly perform the Contract.

3.2 Without limitation to the generality of Condition 3.1, the Customer shall ensure that the details set out on the Order Form and any drawings, sketches, specifications, descriptions or other instructions supplied by the Customer or any agent or representative of the Customer in connection with the supply of any Equipment or Services (as the case may be) by the Company are accurate and fully describe the Customer's requirements and the Customer shall be liable for each liability, loss, injury, damage, demand, claim, cost, charge or expense which may be incurred or sustained by the Company by reason of or arising directly or indirectly out of or in respect of any inaccuracy in respect of any such drawings, sketches, specifications, descriptions or other instructions in relation thereto, or where the compliance with, or use of any such details, drawings, sketches, specifications, descriptions or other instructions by the Company constitutes the infringement of the Intellectual Property Rights or other rights of a third party.

3.3 The Customer shall provide the Company with all information and documentation which may reasonably be required by the Company in order to allow the Company to fulfil its obligations arising out of any Contract.

4. SUPPLY OF EQUIPMENT AND INSTALLATION SERVICES

If the section related to Equipment is completed on the relevant Sales Order Form or in the event that the Company is providing Equipment and/or Installation Services to the Customer, this Condition 4 shall apply to the Contract.

4.1 DELIVERY

4.1.1 The Conditions referred to in Condition 2.1.3.1 are that:

4.1.1.1 the Company provides written confirmation to the Customer that the Equipment referred to on the Order Form is available and can be supplied in the stated timescales; and

4.1.1.2 the Company provides confirmation by email to the Customer that the terms stated on the relevant Order Form do not contain any errors or omissions.

4.1.2 In consideration of payment of the Customer's payment of the Price pursuant to Condition 10.1.1 the Company shall take reasonable steps to deliver the Equipment and where applicable supply the Installation Services using reasonable skill and care, within an estimated period for delivery. Such period shall (unless otherwise specified) commence from the date of receipt by the Company of all instructions and information required for the execution of the Contract. The Company does not guarantee that Delivery or installation will take place within such period, and time is not of the essence of the Contract.

4.1.2 Without prejudice to the generality of Condition 3, the Customer shall be responsible for providing the Company with any necessary instructions for delivery of the Equipment within a reasonable period prior to the estimated delivery date advised by the Company to the Customer.

4.1.3 If the Customer fails to take Delivery of the Equipment or if by reason of instructions or lack of instructions from the Customer the delivery of any Equipment in accordance with the Contract is delayed for more than twenty-eight days after the Company has given notice in writing to the Customer that the Equipment is ready for delivery the Equipment shall be deemed to have been Delivered in accordance with the Contract and thereafter the Equipment shall be deemed to be at the risk of the Customer. The Customer shall pay to the Company the reasonable costs of storing, protecting, and preserving such Equipment after the expiry of such period of twenty-eight days.

4.1.4 If the Contract provides for Delivery by instalments, any delay in the Delivery of any instalment shall not entitle the Customer to treat the Contract as at an end or to reject any other instalment.

4.1.5 If by reason of refusal or delay of Delivery or installation the Equipment shall be deemed to have been Delivered in accordance with Condition 4.1.3 then payment shall be made by the Customer to the Company of the balance of the Price within seven days of such deemed Delivery date.

4.2 CONNECTION

4.2.1 The responsibility for the cost of connection to the public switch telecommunications network and/or the provision of additional circuits or services to the public telephone system lies with the Customer and will be payable in addition to the Charges.

4.2.2 The Customer shall ensure that a suitable earthed mains electricity supply of 240volts ac conforming to the Institution of Engineering and Technology's IEE Wiring Regulations in force at the date of Delivery is available for each piece of Equipment within 2 metres of such pieces of Equipment.

4.2.3 The Customer shall prepare the Site(s) (at its own cost) in accordance with the Company's instructions so that any necessary Equipment can be installed.

4.2.4 The Customer shall adhere to the Equipment manufacturer's power and environmental specifications (as published from time to time) and confirm to all local electrical code requirements.

4.2.5 The Customer shall provide power to Equipment via an adequate number of circuits provisioned according to the Equipment manufacturer's specification.

4.2.6 The Customer shall be responsible for the cost to supply and install all infrastructure required to accommodate the power and environmental specifications as specified by the Equipment manufacturer (as published and as amended from time to time).

4.2.7 The Customer shall (at its cost) install an uninterruptable power supply at the Site providing not less than 60 minutes of standby power at the Site for the Equipment.

4.2.8 Once an order has been placed with a supplier (Stage 1), and you then decide to cancel, a cancellation charge will be applied to your account due any works that may have been started by our supplier. The cancellation charge will increase on the completion of each stage which will reflect the work carried out to date.

4.3 PROPERTY AND RISK

4.3.1 The risk of loss or damage to the Equipment shall vest with the Customer from the moment of Delivery or deemed Delivery (as described in Condition 4.1.3) irrespective of whether title to the Equipment has passed or payment or part payment has been made therefor. From the moment of Delivery or deemed Delivery (as described in Condition 4.1.3) the Customer shall be responsible for insuring the Equipment.

4.3.2 Notwithstanding Delivery and the passing of risk, the legal and beneficial interest in the Equipment supplied under the Contract shall not pass to the Customer until the Company has received in cleared funds payment in full of all sums due for the Equipment and Installation Services (where applicable).

4.3.3 Until such time as the legal and beneficial interest in the Equipment has passed to the Customer, the Customer shall hold such Equipment as the Company's fiduciary agent and bailee, and keep such Equipment properly stored, protected and kept free from any loss, damage, and/or deterioration and insured against all risks for its full reinstatement value and identified as being the Company's property until title passes.

4.3.4 Until such time as the legal and beneficial interest in the Equipment passes to the Customer, the Company shall be entitled at any time to require the Customer (at the Customer's cost) to deliver up the Equipment to the Company at its nominated location and, if the Customer fails to do so forthwith, to enter upon any premises of the Customer or any third party where the Equipment is stored and remove and repossess such Equipment.

4.3.5 The Customer shall not, without the prior written consent of the Company, pledge or in any way charge by way of security for any indebtedness, or alter or modify, any Equipment which remains the property of the Company, but if the Customer does so all monies owing by the Customer to the Company shall (without prejudice to any right or remedy of the Company) forthwith become due and payable.

4.4 LIABILITY FOR REPLACEMENT OR REPAIR

4.4.1 Subject to the following sub-Conditions of this Condition 4.4, at the Company's option, for a period of twelve months from the date of Delivery or Installation (where applicable) whichever is the later event, without cost to the Customer, the Company shall (as applicable) either repair or replace any defective Equipment to make good any defect which shall be proved to the satisfaction of the Company to be the result of faulty design, materials or manufacture or re-perform any Installation Services (only where the Company has supplied Installation Services under the Contract) provided that the Company shall have no liability for any such defects unless the Customer notifies the Company, within three Business Days from Delivery or the completion of the Installation Services (where applicable) whichever is the later event, of any defect arising prior to and/or on Delivery or Installation (as the case may be) and (subject to Condition 4.4.2) within twenty four hours of any latent defect arising within such twelve month period.

4.4.2 If the Customer enters into an agreement for maintenance of the Equipment with a third party, the Company's liability for defects in the Equipment shall cease, save for the Company's liability for defects arising on or before Delivery of the Equipment in accordance with Condition 4.4.1.

4.4.3 Where the Company is to supply Maintenance Services in respect of the relevant Equipment under the Contract, Condition 6 shall apply and in the event of any conflict between this Condition 4.4 and Condition 6, the provisions in Condition 6 shall prevail.

4.4.4 The liability of the Company shall apply only to defects that appear under proper use and under Conditions of operation not more onerous than those declared to the Company by the Customer prior to entering into the Contract, and in particular shall not apply to defects which arise from neglect, misuse, or faulty maintenance of the Equipment by the Customer or any of its other contractors, or from alterations carried out without the prior written consent of the Company or from repairs carried out improperly by the Customer or its servants or agents or arising from normal wear and tear.

4.4.5 Any repaired or new parts provided by the Company under this Condition 4 will be delivered by the Company to the Customer free of charge. Any Equipment (or part) which has been returned to the Company and replaced by the Company shall become the property of the Company.

4.4.6 The Company reserves the right to charge on a quantum meruit basis for the costs of repairs and/or callouts if the Company considers that the damage has resulted from misuse or unauthorised repair or alteration of the Equipment by the Customer or any third party, or from normal wear and tear.

4.4.7 Neither acknowledgement of receipt nor investigation, by the Company of any claim made hereunder shall constitute or imply admission by the Company of any liability in respect of such claim.

4.4.8 Save where the Customer has purchased Maintenance Services in respect of the relevant Equipment (in which case Condition 6 shall apply) and subject to Condition 13.5, the rights and remedies provided to the Customer under this Condition 4.4, in connection with any defect in the Equipment resulting from faulty design, materials or manufacture or Installation or defect in the Installation shall be the Customer's exclusive remedies in respect of the same.

4.5 TRADEMARKS AND BRANDING

4.5.1 The Company shall be entitled to fix legends bearing the Company's and/or its third-party supplier's name and/or trademarks or other marks to any Equipment. The Customer shall ensure that no such marks are removed or defaced at any time.

5. DATA NETWORK SERVICES

If the section(s) relating to Data Network Services is/are completed on the relevant Order Form or in the event that the Company is providing Data Network Services to the Customer, this Condition 5 shall apply to the Contract.

5.1 DURATION OF DATA NETWORK SERVICES

5.1.1 The Conditions of service are:

5.1.1.1 the Company carrying out a survey which reveals to the Company's satisfaction that it is possible for the Company to supply the Data Network Services.

5.1.1.2 that the Company determines that any details or information used by the Company to determine the Charges applicable or any other terms of the Contract, whether supplied by the Customer or otherwise, are accurate and not misleading. The Charges may change depending on the results of such survey (including, without limit, where there are additional construction charges associated with a Site required to be incurred); and

5.1.1.3 the provision by the Company of confirmation by email to the Customer that the terms stated on the Order Form of the applicable Contract for Data Network Services do not contain any errors or omissions.

5.1.2 Unless the Customer terminates the Contract in accordance with Condition 5.1.3 or the Customer is a Small Business Customer (in which case Condition 5.1.4 shall apply) then, upon the expiry of the Minimum Term, the Contract will renew automatically for a Rollover Period.

5.1.3 Unless the Customer is a Small Business Customer (in which case Condition 5.1.4 shall apply), the Customer may terminate the Contract by giving ninety days' notice in writing to the Company, such notice to become effective no earlier than the expiry of the Minimum Term or (if the Contract has automatically renewed under Condition 5.1.2) upon the anniversary of such date thereafter. If the Customer does not elect to give notice to terminate the Contract during the Rollover Period, the Contract will continue to automatically renew for subsequent Rollover Periods on each anniversary of the date of the expiry of the Minimum Term.

5.1.4 Where the Customer is a Small Business Customer, the Customer may terminate the Contract by giving ninety days' notice in writing to the Company, such notice to become effective no earlier than the expiry of the Minimum Term.

5.2 PROVISION OF DATA NETWORK SERVICES

5.2.1 The Company shall use reasonable endeavours to provide the Data Network Services from the Connection Date subject to these Conditions. The Data Network Services may not be fault free and use of the Data Network Services may not be uninterrupted.

5.2.2 Subject to the continuing supply of the service by the relevant Carrier, in the event of a fault occurring in the Data Network Services the Company will use reasonable endeavours to rectify the fault as soon as practicable however the Company shall have no liability to the Customer for any fault occurring, or any interruption to the Data Network Services whether in contract, tort (including without limitation negligence or breach of statutory duty) or otherwise, howsoever caused including but not limited to atmospheric Conditions; any congestion, fault, interruption or interference with the network; any fault, interruption or interference with the power supply to the network, any act or omission by the relevant Carrier, or any known or unknown viruses which cause interruption or interference with the fixed network.

5.2.3 Except where stated on the Order Form, provision of the Data Network Services does not include the provision of any modems or other equipment.

5.2.4 The Customer acknowledges that the speed of any data connectivity in the Data Network Services depends on several factors including, but not limited to, distance from the exchange, local availability, and network capacity and/or traffic levels. The Company shall have no liability to the Customer whether in contract, tort (including without limitation negligence or breach of statutory duty) or otherwise if the Customer's circuit(s) or service(s) does/do not produce a top speed of the maximum speed advertised.

5.3. USE OF THE DATA NETWORK SERVICES

5.3.1 The Customer shall be responsible for safe use by it of the Data Network Services and without prejudice to the generality of the foregoing the Customer agrees and undertakes.

To use the Data Network Services in accordance with such additional Conditions as may be notified to it in accordance with Condition 19 from time to time.

To cause any attachments, other than those that meet the appropriate essential requirements of regulation 4 of the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (as from time to time amended) and any other requirements under the General Conditions and all other Relevant Laws, to be connected to the Data Network Services and the Company shall not be under any obligation to connect or keep connected any Customer apparatus if it does not so conform or if in the reasonable opinion of the Company it is liable to cause death, personal injury or damage or to impair the quality of the Data Network Service.

Not to contravene the General Conditions or any other relevant regulations or licences granted thereunder and otherwise not to contravene, and not by any act or omission, cause the Company to contravene, any Relevant Laws or General Conditions.

Not to use (and to procure that no end user of the Data Network Services shall use) the Data Network Service as a means of communication for a purpose other than that for which the Data Network Service is provided and as may be set out in any relevant literature supplied by the Company from time to time.

Not to use (and to procure that no end user of the Data Network Services shall use) the Data Network Service to make, provide, communicate, deliver, knowingly receive, upload, download, use or re-use any material or information which is intended to be a hoax or is of a defamatory, offensive, abusive, indecent, obscene or menacing character, or which does or is intended to cause annoyance, nuisance inconvenience or worry to any person or which in the Company's opinion brings the Company's name into disrepute or which in any way causes damage to or disruption to the Data Network Services;

Not to use the Data Network Service in a manner which constitutes a violation or infringement of the rights of any other person.

To always maintain its telecommunications apparatus during the period of the Contract in good working order and in conformity with any relevant regulatory standards or approvals and Relevant Laws for the item as from time to time applicable.

To provide the Company with all such information as it reasonably requests relating to the Customer's telecommunications apparatus.

To implement adequate control and security over the use of the Data Network Services provided to the Customer including but not limited to the prevention of viruses, worms, Trojan horses and/ or any access to the Data Network Services by hackers.

Not to use the Data Network Services in a way that breaches any Relevant Laws, any guidelines, regulations or instructions of OFCOM or any licence applicable to the Customer or that is in any way unlawful or fraudulent; and not to send or procure the sending of any unsolicited advertising or promotional material.

5.3.2 Any equipment installed or provided by or on behalf of the Company for the purposes of providing the Data Network Services and which is not for end use by the Customer shall always remain the property of the Company and shall be returned to the Company forthwith upon request. Condition 4.3 shall apply to such equipment and for the purposes of this Condition 5.3.2 only such equipment shall be deemed Equipment under those Conditions. The Customer shall be liable to the Company for all losses, costs and expenses incurred by the Company for the recovery, replacement, or repair of such equipment (save to the extent that the same is caused by the negligence of the Company).

5.3.3 The Data Network Services are provided solely for the Customer's use and the Customer may not resell or attempt to resell the Data Network Services (or any part of them) to any third party. In addition, if the Customer has a mail server, the Customer must not allow relay emails from outside its domain from the Customer's mail server.

5.3.4 The Company does not warrant or guarantee the accuracy or completeness of any of the information, sound, video, software and/or any other materials (in whatever form) which may be accessible by the Customer from any other person once it has the Data Network Services (the "Content") or any further information or results which may be derived from it. The Customer acknowledges that, the Content is outside the control of the Company and the Customer will not rely on any Content in making any business or other decision and that the Customer's use of the Content is at the Customer's sole risk.

5.3.5 The Customer acknowledges that the Content may be protected by copyright, trademark, and other intellectual property rights, as applicable. The Customer shall not and will not permit anyone else to copy, store, modify, distribute externally, broadcast or publish any part of the Content, and the Content may only be used for the Customer's own purposes.

5.3.6 The Customer is entirely responsible for evaluating any goods or services offered by third parties via the Services or on the internet. The Company will not be a party to or in any way be held responsible to the Customer for any transaction between the Customer and third parties.

5.3.7 The Customer warrants, represents and undertakes that any information the Customer makes available on its website, including the Customer's and that of a third party ("Third Party Content") is and will remain wholly accurate and will not include any information or material, any part of which, or the accessing of which or use of which, would be a criminal offence or is otherwise unlawful.

5.3.8 The Customer also warrants, represents, and undertakes that it will comply with all consumer and other legislation, instructions or guidelines issued by regulatory authorities and relevant licences which relate to the provision of the information on the Customer's website including those notified by the Company to the Customer.

5.3.9 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, Trading Standards, the Information Commissioner and/or OFCOM and their successors from time to time) in connection with any misuse or suspected misuse of the Data Network Services, and the Customer consents to the Company co-operating with any such authority and with any other telecommunications operators in connection with any misuse or suspected misuse or suspected fraudulent activity related to or connected with the Data Network Services and agrees, without prejudice to the generality of the foregoing, that the Company will be entitled to divulge any information which the Company holds which may be relevant to any investigation, including the name, address and account information relating to the Customer to such third parties.

5.3.10 The Customer acknowledges that the Data Network Services may utilise infrastructure which is also used for services provided to other users and the Company owes a duty to these users to preserve its network integrity and reduce network degradation. If, in the Company's reasonable opinion, the Company believes that the Customer's use of the Services has or may adversely affect such network integrity or may cause network degradation the Company may change the Customer's chosen access rate or manage the Customer's Services as the Company sees fit in the circumstances.

5.3.11 To prevent spam from entering and affecting the operation of the Company's systems and the Data Network Services, the Company may take any reasonable measures or actions necessary to block access to, or delivery of, any e-mail which appears to be of an unsolicited nature and / or part of a bulk e-mail transmission. The Company may also use virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments. The Company shall have no liability whether in contract, tort (including without limitation negligence and breach of statutory duty) or otherwise if the virus screening technology is not completely effective in any way, including (without limitation) against unsolicited emails or against any viruses, worms, trojan horses or other programme(s) or devices that are apparently intended to access and modify, delete, or damage data file(s) or computer programme(s).

5.3.12 The Customer shall comply with the Broadband Acceptable Use Policy. The Company may change the Broadband Acceptable Use Policy at any time.

5.3.13 The Customer will not misuse the Data Network Services in any way.

5.3.14 The Company has assumed that sufficient fibre and/or copper are available at each Site for the provision of the proposed Data Network Services. Excess construction charges levied by the Carrier for the delivery of ducts and/or fibre and/or copper into the building shall be the responsibility of the Customer.

5.3.15 The Customer acknowledges and understands that all bandwidths stated by the Company in relation to the Data Network Services are indicative of the maximum achievable at the stated location for a given service. The actual bandwidth provided will be subject to copper or fibre circuit length and quality and will not be known until the circuit is provisioned and installed.

5.3.16 The Company shall not be liable to the Customer for any interruption, degradation, or other failure in the Data Network Services to the extent such interruption, degradation or other failure arises directly or indirectly from:

The Customer's network or system, or any part thereof.

The Customer's and/or its agents', representatives' or users' negligent acts or omissions.

The Customer's breach of the Contract.

The Customer's failure or delay in complying with the Company's reasonable instructions and/or any failure or delay in providing information requested by the Company.

Any delay in the Customer allowing the Company, its employees, agents, or subcontractors to enter a Site and/or the applicable parts thereof to diagnose or remedy any fault.

Anything beyond the reasonable control of the Company as defined more particularly in Condition 13.4.

Any encryption on any of the routers.

The Customer requesting the Company to modify a Site, or test one although no fault has been detected or reported in accordance with the terms of the Contract.

Implementation of a configuration change.

Planned outages advised to the Customer by the Company.

Power outages at a Site.

Relocation, reconfiguration, modification and/or reprogramming of any equipment related to the Data Network Services which is not undertaken by the Company unless completed under (and strictly in accordance with) the Company's instructions.

Suspension of the Services in accordance with the Contract.

Environmental Conditions which are not within the tolerances prescribed by the relevant manufacturer's guidelines (for example, humidity, heat, dust, power).

Any fault in a circuit between the local exchange and the applicable Site where the Data Network Service at a Site includes circuits from dual carriers (using the same duct) and does not have the benefit of full fibre diversity into the Site from a single carrier; and/or

Any act or omission of any third party which is beyond the Company's reasonable control which shall include, without limitation, fibre cutting.

5.3.17 The Company shall not be liable for any costs, damages, expenses, losses, or liabilities, which arise (whether arising in contract, tort (including without limitation negligence) or otherwise) (including but not limited to any failure or sub-standard performance of the Data Network Services or Equipment) as a result of the performance or non-performance of any equipment which the Customer uses as part of, or in connection with, the Data Network Services.

5.4 TRANSFER FROM THIRD PARTY SUPPLIERS

Where the transfer of circuits and services from third party suppliers is selected by the Customer on the Order Form, then the Customer shall procure that such transfer is carried out. ACS Business Supplies may levy additional charges on the Customer for to compensate ACS Business Supplies costs it incurs as a result of any such transfer (including without limitation facilitating the transfer of a circuit, providing access to ACS Business Supplies data centre(s) to third party suppliers and any internal patching which may be required).

The Customer and not the Company shall be liable for any charges (including without limitation any early termination charges) made by third party suppliers for any transfer of circuits or services or otherwise, unless it is clearly identified and agreed in writing on the Order Form at the time of the Company formally accepting such Order Form that the Company will pay for specified charges.

5.5 VOICE OVER THE DATA NETWORK SERVICES

5.5.1 The Customer shall not use the Data Network Services for any voice services (including without limitation Voice over Internet Protocol (VoIP)) as the Data Network Services may not be suitable and/or configured for any such services. Should the customer wish to run voice services (such as VOIP) then Quality of service (QOS) will need to be applied (which may or may not be subject to additional charges). The Company shall not be liable for any losses, liabilities or costs arising directly or indirectly from such use of the Data Network Services if QOS has not been applied.

5.6 DOMAIN NAMES

5.6.1 The Customer warrants, represents and undertakes that it is the owner of, or that it is authorised by the owner of, (and has the right to use) any trademark or name that the Customer wishes to use as or in its registered domain name (or any of them) ("Domain Names") and/or as part of the Customer's uniform resource locator ("URL").

5.6.2 If the Company undertakes Domain Names and/or URL registration on behalf of the Customer, the Customer will reimburse the Company for any registration fees paid by the Company to the relevant internet registration authorities. The Company does not guarantee that any Domain Names or URL requested by the Customer will be available.

5.6.3 The Company may require the Customer to select replacement Domain Names or URL and may either refuse to provide or may suspend the Services if the Company reasonably believes that the Domain Names or URL is, or is likely to be, offensive, abusive, defamatory, or obscene or infringe the rights of a third party.

5.7 DISPUTE RESOLUTION

5.7.1 The Company will attempt to resolve any dispute that the Customer may have with the Company. Any disputes must be notified by the Customer to the Company in accordance with the complaints.

5.7.2 Nothing in this Condition 5.7 shall prevent the Customer or the Company from exercising any rights and remedies that may be available in respect of any breach of the provisions of the Contract.

6. TERMINATION

6.1 The Customer may terminate the Contract in relation to the Services by giving ninety days' notice in writing to the Company, such notice to become effective no earlier than the expiry of the Minimum Term or (if the Contract has automatically renewed under Condition 6.1.2) upon the anniversary of such date thereafter. If the Customer does not elect to give notice to terminate the Contract during the Rollover Period, the Contract will continue to automatically renew for subsequent Rollover Periods on each anniversary of the date of the expiry of the Minimum Term.

6.2 In consideration of (and subject to) the payment of the Annual Support Charge each year by the Customer, the Company shall use reasonable endeavours to supply the Maintenance Services to the Customer in accordance with the Contract.

6.2.1 Where the Company replaces defective Equipment or part thereof, it shall be entitled to supply serviceable re-conditioned items in substitution thereof. These Conditions shall continue to apply to the Equipment embodying such substituted items. This is on Condition that the service levels are achieved.

6.2.2 The Company does not warrant that the provision of Maintenance Services (or any additional services supplied pursuant to Conditions 6.3.1 or 6.3.2) will ensure that the Equipment operates without interruption or error. "Accepted Services"):

The repair of damage to the Equipment resulting from accident, neglect or causes other than ordinary use (including, but not limited to, failure to observe any instructions supplied by the Company or the original Equipment manufacturer) regarding the operation of the Equipment).

Labour or materials required to repair Equipment as a result of theft, vandalism, fire, lightning, water damage, fluctuations in electrical power supply, unsatisfactory environmental Conditions, telephone line Conditions, network Conditions, the connection or installation of unapproved accessories, attachments, software, or other devices or as a result of a breach by the Customer of Condition 6.5.

The alteration, modification, or maintenance of the Equipment by any person other than the Company without the Company's prior written consent.

The transportation or relocation of the Equipment save where the same has been performed at the request of the Company.

The maintenance or repair of any extension wiring (after the initial twelve-month warranty period under Condition 4.4.1 has passed), any Equipment not at the Site, or of anything other than the Equipment.

Any defect or error in any software used upon or in association with the Equipment.

The supply of replacement cassettes, aerials, aerial systems, and batteries.

The reprogramming of the Equipment to provide improved or modified service or facilities.

Equipment faults caused by telephone area code changes or changes in Carriers.

Ancillary items including but not limited to computers, servers, uninterruptible power supplies, batteries, printers, cabinets, any cabling and/or consumables unless otherwise agreed in writing.

Maintenance arising from loss of equipment as the Maintenance Services are limited to repair or replacement of faulty equipment on a like-for-like exchange basis; and/or

A dedicated helpdesk.

6.3 ADDITIONAL CHARGES

6.3.1 The Company may, in its sole and absolute discretion, upon request by the Customer provide all or any of the accepted Services (as referred to in Condition 6.2.5 above) but shall be entitled to charge for the same by levying Additional Charges (which may include but shall not be limited to call-out charges) in the manner described in Condition 6.3.3 below. The Customer will pay if the fault is that of the customer only and the Company can charge the Customer for this.

6.3.2 Without prejudice to Condition 6.3.1 above the Company shall be entitled to levy (and receive from the Customer) Additional Charges in the manner described in Condition 6.3.3 below if:

Maintenance Services are provided in circumstances where any person which is reasonably skilled and competent in the field of maintaining communications equipment would have judged the Customer's request to have been unnecessary; and/or

The Customer reports an apparent fault of the Equipment to the Company and upon investigation by the Company the Equipment and/or its Installation is found not to be defective. Such Additional Charges may include (without limitation) a charge for the investigation and/or for any call-out and for any Equipment changed in a postal exchange where the Company reserves the right to make a charge up to the replacement value of the Equipment in question); and/or

Where the Company determines that a fault that has been reported to the Company is a fault of the Carrier.

6.3.3 Additional Charges shall be levied by the Company as follows:

following completion of the Accepted Services supplied under Condition 6.3.1 or Additional Services under Condition 6.3.2(a); or following completion of the investigation and/or call out in respect of Conditions 6.3.2(b) and 6.3.2(c).

Such Additional Charges (calculated in accordance with the Tariff prevailing at the time) shall be payable by the Customer within ten days of the date of an invoice.

6.4 DISCONTINUED SERVICES

Without prejudice to Condition 16 or any other right of suspension or termination of Services under these Conditions, the Company shall have the right to discontinue the Maintenance Services in respect of any Equipment (without liability to the Customer) in the event that the Company's supplier and/or the manufacturer of the Equipment has ceased to supply or manufacture such Equipment provided that the Company shall notify the Customer as soon as reasonably practical after it is aware of any cessation in supply or manufacture of the Equipment and shall either (upon agreement with the Customer) (i) terminate the Contract; or (ii) replace or upgrade the affected Equipment at the Customer's expense.

Without prejudice to Condition 15 or any other right to terminate any Services under these Conditions, the Company shall have the right to terminate forthwith the supply of the Maintenance Services (without liability to the Customer) if any necessary approvals required by the Company to maintain any of the Equipment are not granted or revoked by any government or regulatory agencies or any third party.

6.5 The Customer shall:

Ensure that the Equipment is used in a normal and proper manner.

Take all steps, measures and meet all requirements contained in the customer operating instructions and manufacturer's written recommendations supplied with the Equipment ("User Instructions").

Carry out minor maintenance adjustments suggested by the Company which includes minor programming changes with telephone support and replacement of handsets and cords which are relayed by courier or post.

Not carry out or permit any alteration to call routing apparatus or extension wiring (except by the Company, or by the Company's authorised agents), save that in relation to the connection of other apparatus to the Equipment, such connection may be performed by another person at the Customer's expense if either

The Company so agrees in writing, or

The Company fails to carry out the connection itself within twenty-eight days after receiving written notice from the Customer stating that the Customer wishes specified apparatus to be so connected and naming that other person by whom the Customer wishes the connection to be performed.

6.5.1 Appoint at least one member of its staff as a "Principal Operator", who will be trained in the use of the Equipment. The Customer will ensure that such Principal Operator is available to carry out the instructions in the User Instructions and to liaise on Maintenance Services matters with the Company.

6.5.2 not employ or permit a third party to make any alterations to the programming or physical structure of the Equipment. If the Equipment is not (immediately prior to the Commencement Date) either already maintained by the Company or within the scope of an express warranty given by the supplier thereof, then the Company may at its discretion inspect the Equipment and undertake such repair work as may be necessary to put the Equipment in good working order. The Customer shall pay for such inspection and repair at the Company's then current charge rates applying at that time, and such payment shall be in addition to the Annual Support Charge.

CHANGE OF LOCATION

6.6 The Customer will not move any of the Equipment, nor remove the Equipment from its location as at the Commencement Date without the prior written consent of the Company, (such consent not to be unreasonably withheld). Where the Company consents to such relocation, the Company will provide a relocation and installation service, the cost of which shall be paid by the Customer in accordance with the Company's then current Tariff, and such payment shall be in addition to the Annual Support Charge.

7. FINANCE AND CREDIT

7.1 The Customer hereby consents to and shall procure that its owners, directors, officers and assigns consent to, the Company carrying out searches with credit reference agencies relating to the credit worthiness of the Customer and/or its owners, directors, officers and assigns and the Customer shall, upon the Company's request promptly supply or procure the supply of all information requested for a credit search with a credit reference agency, who will add to the Customer's records and/or those records of its directors, officers and assigns details of the searches and these will be seen by other organisations that make searches.

7.2 It is agreed that where the Company approaches a finance provider or lease provider to arrange finance for the purchase or leasing of Equipment then the Company acts as an agent for the Customer and not for the finance provider or lease provider.

7.3 In the event that the Company is unable to obtain relevant finance on the terms originally proposed then the Company shall return the deposit received from the Customer for the relevant Equipment and shall have no further liability to the Customer.

7.4 If indemnities are required by a relevant finance provider, failure to provide such indemnities shall constitute a breach of these Conditions by the Customer and shall entitle the Company to terminate this Contract and retain any deposit paid by the Customer.

8. PRICE AND CHARGES

8.1 EQUIPMENT

8.1.1 The Price is as stated on the Sales Order Form. Any invoices issued by the Company in respect of the Price shall, save in the case of manifest error, be final, conclusive, and binding on the Customer.

8.1.2 Unless otherwise specified the Price is based on the assumption that the Delivery of the Equipment and (where applicable) Installation Services will be completed in one visit to the Site and accordingly the Company may at its discretion at any time increase the Price to take account of any additional costs to the Company (including but not limited to storage and delivery costs) by reason of Delivery and/or the Installation Services taking more than one visit, where the Customer is liable for the delay.

8.2 DATA NETWORK SERVICES

8.2.1 The Charges will be as detailed in the Tariff or unless, and as, stated on the Order Form.

8.2.2 The Company shall have the right to alter the Charges from time to time (subject to any agreed minimum fixed period) at least thirty days prior to the change taking effect in the event of changes which may be of material detriment to the Customer: and as soon as is reasonably practical in the circumstances prior to the change taking effect, for all other changes, and if the Customer wishes to object to any proposed change which is of material detriment to the Customer, then the Customer must notify the Company in writing (addressed to ACS Business Supplies, Kismet House, Otley Road, Baildon, BD17 7HB) within thirty days of publication of the proposed change, otherwise the Customer will be deemed to have accepted the proposed change. For the avoidance of doubt, the publishing by the Company of any change in accordance with Condition.

8.2.2(a) shall not constitute either acceptance of or an admission by the Company that any proposed change is of material detriment to the Customer, nor shall the service of notice by the Customer under this Condition constitute or be deemed to constitute evidence that the relevant change is of material detriment to the Customer.

8.2.3 Usage charges payable shall be calculated by reference to data recorded or logged by the Company and not by reference to any data recorded or logged by the Customer. Any invoices issued by the Company in respect of the Charges for Services shall, save in the case of manifest error, be final, conclusive, and binding on the Customer.

8.2.4 Subscription Charges are payable from the Commencement Date.

8.2.5 The Company will increase the Subscription Charges in April of each year following the Commencement Date by the increase (if any) in the Rate of RPI. (Subject to any minimum fixed period).

8.6 VALUE ADDED TAX

All sums referred to under these Conditions, the Order Form, any Promotional Terms, and any Service Specific Conditions are (unless otherwise stated) exclusive of Value Added Tax (VAT) and any taxes of a similar nature which may from time to time be introduced, which will be payable at the rates ruling at the date of the relevant invoice.

9. SITES

9.1 To enable the Company to fulfil its obligations under any Contract:

9.1.1 the Customer shall permit or procure permission for the Company, its agents, employees and representatives and any other person(s) authorised by the Company to have reasonable access to the Site, Equipment and any other relevant system and other equipment and shall provide such reasonable assistance as the Company requests. If the Company is refused access or prevented from accessing the Site, for whatever reason, it will be relieved from all its performance obligations under this Contract and shall have no liability to the Customer and the Customer shall hold the Company harmless in this regard.

9.1.2 The Company will normally carry out Installation Services and/or Maintenance Services by appointment and during Normal Working Hours but may request the Customer to (and the Customer shall) provide access at other times. If the Customer cancels, reschedules or misses any pre-arranged appointment, it shall be liable to the Company for any costs and expenses which the Company incurs as a result of such cancellation, rescheduling and/or missed appointment.

9.2 At the Customer's request, the Company may agree (at its sole discretion) to work outside Normal Working Hours and the Customer shall pay the Company's reasonable charges for complying with such a request.

9.3 The Customer warrants, represents and undertakes that there are adequate health and safety provisions in place at the Sites, and that the Customer holds third party public liability insurance with a level of cover of at least the minimum required by law.

9.4 The Customer shall procure all consents, licences, and permissions necessary from landlords or other third parties for the carrying out of preparation work, installation of Equipment and for the provision, use and operation of the Equipment and/or Services at the Sites (save to the extent the Company has agreed in writing to do it). The Customer shall provide copies of such consents, licences, and permissions to the Company upon request.

9.5 In the event that the Customer is not able to procure the necessary consent to provide the Services within ninety days from the Commencement Date the Company will be able to terminate the Contract forthwith by giving the Customer written notice without any liability. If the Customer has not managed to procure the necessary consents and the Company has commenced work the Company may ask the Customer shall, on request by the Company, refund to the Company the cost of all such work (including, without limitation, staff costs and equipment costs) at its then current rates.

9.6 The Customer shall provide the Company with the site and building plans (to include full details of all internal cabling runs) of the Sites and provide the Company with full details of all other services in the vicinity of the proposed works.

9.7 The Customer is responsible for making the Site good after any work undertaken by the Company at a Site, including without limitation replacing and re-siting items and for redecorating.

9.8 The Customer shall provide sufficient rack space for housing any equipment related to the Data Network Services together with an adequate power supply.

9.9 The Customer shall ensure any equipment related to the Data Network Services is housed in a locked, well ventilated cabinet with sufficient environmental control to maintain both heat and moisture within tolerable limits.

9.10 The Customer shall ensure that the power supplied to the Equipment and any other related equipment is protected to maintain supply and prevent spikes and losses, without which the Data Network Services shall not be available.

9.11 The Customer warrants, represents and undertakes that:

It has the right to grant (and shall grant) access and permission to the Company and its Carriers to install physical infrastructure at the Sites. The Sites at which it is intended to provide Services are not 'listed buildings' nor do they have any other limitations or restriction which may impact the installation of physical infrastructure.

The Customer must provide an asbestos register if the building is older than 2000 and identify asbestos contaminated areas at the Site prior to implementation and commencement of the works. If the Company discovers asbestos contaminated areas at the Site, then it will cease work until the asbestos is removed or the area is made safe for the works to resume. The Company shall have no liability for any delay which is as a result of asbestos contamination and the Customer shall hold the Company harmless in this regard. The Customer shall be responsible for the removal of all asbestos at the Site including the co-ordination of and all costs incurred in connection with the engagement by the Customer of a company which specialises in the installation of cables in asbestos contaminated areas.

The Customer acknowledges and agrees that once the Contract is in effect in accordance with Condition 2.1, it shall not (save without the prior written consent of the Company) be able to change the address of the Site at which the Data Network Services are to be provided. Further the Customer acknowledges and agrees that any change to the site may result in additional charges to be paid by the Customer.

10. LIMITATION OF LIABILITY

10.1 Unless otherwise stated in this Contract, the Company makes no representation or warranty in respect of the supply of Equipment and/or Services and all other terms, Conditions and warranties which may otherwise be implied into this Contract by law or course of dealings between the parties are hereby fully excluded legally possible.

10.2 Subject to Condition 10.5, in no circumstances shall the Company's liability to the Customer arising under or in connection with this Contract (whether in contract, tort (including without limitation negligence) misrepresentation, breach of statutory duty or otherwise) in any Contract Year exceed 110% of the Price and/or Charges paid in the twelve months prior to the date on which a claim arose in respect of the Equipment, Data Network Services, to which the claim relates.

10.3 Subject to Condition 10.5, under no circumstances shall the Company be liable in any event under or in connection with the Contract and whether in contract, tort (including negligence) misrepresentation, breach of statutory duty or otherwise for any:

10.3.1 loss of revenue.

10.3.2 loss of business.

10.3.3 loss of contracts.

10.3.4 loss of, damage to, or corruption of data (save where expressly stated otherwise in these Conditions);

10.3.5 loss of anticipated savings.

10.3.6 loss of profits; or

10.3.7 indirect, consequential, or special losses; whether the Company knew or ought to have known that such losses or damages might be incurred.

10.4 Neither party shall be liable to the other party for any breach of any provision of the Contract (whether in breach of contract, tort (including but not limited to negligence) misrepresentation, breach of statutory duty or otherwise) caused by any reason outside the reasonable control or responsibility of that party including, without limitation, ((in respect of Data Network Services supplied by the Company, the failure of any Carrier to provide network capacity and/or connectivity (or any element thereof) to the Company on which it was reliant for the purposes of the Contract), any act of God, terrorist attacks, inclement weather, accidental damage, vandalism, failure or shortage or power supplies, flood, drought, lightning or fire, strike, lock-out, trade dispute or labour disturbance, any act or omission of Government, highways authorities, or other competent authorities.

10.5 Nothing in these Conditions excludes or restricts either party's liability for:

10.5.1 death or personal injury resulting from that party's negligence or its employees' negligence (while acting in the course of their employment); any fraud, fraudulent misrepresentation, or fraudulent misstatement.

10.5.2 any indemnity given under the Contract; and/or

10.5.3 Anything for which the parties cannot at law limit or exclude their liability.

10.4 Subject to Clause 10.5, the Customer agrees that any cause of action that it may have against the Company and/or any of its Group members (including, its (or their) affiliates, directors, officers, agents, consultants, and employees) must commence within two (2) years after the cause of action arose, otherwise, the Customer's cause of action is permanently barred.

11. CUSTOMER'S INDEMNITY

11.1 Without prejudice to any other rights of the Company, the Customer shall indemnify, keep indemnified and hold harmless the Company against all costs (including without limitation legal costs and the cost of enforcement (on a full indemnity basis)) liabilities, claims, damages, direct, indirect or consequential losses (including without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss whether such losses are direct, indirect or consequential losses), expenses and/or judgments whatsoever, which it may suffer or incur, and arising from any:

Breach by the Customer of any warranties, undertakings and/or representations given under the Contract and/or any failure to comply with any obligations, responsibilities and/or liabilities of the Customer set out in the Contract; and/or injury and/or damage suffered or incurred by or to any of the Company's (or any of the Company's contractors') employees and/or equipment whilst on a Site.

12. SUSPENSION, TERMINATION AND CONSEQUENCES

12.1 SUSPENSION OF SERVICES

12.1.1 Without prejudice to any other right of the Company to suspend or terminate the Services under these Conditions, the Company may at its sole discretion elect to suspend forthwith provision of any Services until further notice without liability to the Customer having given the Customer reasonable notice either orally (confirming such notification in writing) or in writing if:

The Customer is in breach of a term of these Conditions and/or the Contract and/or any other contract between the parties from time to time including but not limited to the Customer's failure to pay the Price and/or the Charges (or any of them) to the Company on the due date or to comply with the Broadband Acceptable Use Policy.

The Company is obliged to, in order to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative or regulatory authority (including without limit, OFCOM).

The Company has reasonable grounds to believe that any of the Services are being used fraudulently, unlawfully or by an unauthorised third party.

Any licence under which the Customer has the right to use the Services (or disclose data to the Company) is revoked, amended, or otherwise ceases to be valid.

The Company or any member of its Group is entitled to suspend and/or terminate provision of any other telecommunications service under the terms of any other agreement with the Customer; or

Any maintenance or repair is necessary or required to the relevant network or related systems or equipment (for the avoidance of doubt, in the event of emergency maintenance or repair, the Company shall not be required to give any advance notice).

12.1.2 The Customer shall reimburse to the Company all reasonable costs and expenses incurred by the implementation of a suspension pursuant to Condition 12.1.1 and/or the recommencement of the provision of the Services as appropriate, save in the case of a suspension, pursuant to Condition 12.1.1.

12.1.3 The Customer shall not have access to any data stored through the Hosting Services during a suspension. The Customer shall have the opportunity to create a snapshot backup of the data stored through the Hosting Services, and the Customer shall pay the Company the applicable charges for undertaking such a backup, in accordance with the Company's then current charges.

12.1.4 Without prejudice to any other right of termination under these Conditions, the Company may terminate (in whole or in part) the Contract forthwith if its right, or the right of the relevant Carrier, to provide any of the services, which are withdrawn by any supplier to it or OFCOM pursuant to the General Conditions or otherwise.

12.2 TERMINATION OF SERVICES

12.2.1 Subject to Conditions 12.2.4, 12.2.5 and 12.2.6 below and without prejudice to any specific termination rights set out elsewhere in these Conditions, the Customer shall not be entitled (once an order has been accepted by the Company) to change or cancel an order.

12.2.2 Subject to Condition 12.2.6, in the event of any termination by the Customer of the Contract (in whole or in part), the Customer shall indemnify the Company in full against all loss (including, but not limited to, all losses incurred by the Company as a result of the Customer terminating the Contract before the end of the Minimum Term or where the Contract has continued beyond the Minimum Term before the end of the relevant notice period, which will include a minimum payment to the Company of the amount of the outstanding Charges or other amounts that would have been paid by the Customer had the Contract continued for the Minimum Term and/or the relevant notice period (as the case may be)), costs, damages, charges (including, but not limited to, any liability for Services transferred from third parties) and administration charges (of a minimum of £300 in respect of the termination of the supply of any or all of the Equipment which is the subject of a Contract) and expenses incurred by the Company as a result of such changes or cancellation.

Without prejudice to any other rights of the Company under these Conditions or otherwise, the Company shall be entitled at any time and for any reason whatsoever to terminate this Contract for Services on the giving of not less than thirty days' written notice to the Customer, without further liability to the Customer. For the avoidance of doubt, if the Company terminates a Contract under this Condition 12.2, the Customer's liability to pay the Charges for Services shall end on the date of termination of the relevant Contract and the Customer shall not be liable to pay for the Charges applicable for the remainder of any Minimum Term applicable in respect of that Contract.

A contract may be terminated forthwith by either party by notice in writing if the other party materially breaches its obligations under this Contract (including without limitation non-payment of charges due) and in the case of breaches which are capable of remedy such party fails to remedy such breach within fourteen days of written notice by the other party of what the breach is and requesting that the breach is remedied. The Company shall also be permitted to terminate this Contract forthwith on notice to the Customer if the Customer is in material breach of any other contract to which these Conditions apply (as in force from time to time) and which breach, if capable of remedy, has not been remedied within fourteen days of written notice by the Company of what the breach is and requesting that the breach is remedied.

Notwithstanding anything to the contrary expressed or implied in these Conditions, either party (without prejudice to its own rights) may terminate all Contracts forthwith in the event that the other party becomes unable to pay its debts as they fall due (as defined in s123 of the Insolvency Act 1986), a liquidator (other than for the purpose of solvent amalgamation or reconstruction) trustee in bankruptcy, administrator or receiver is appointed in respect of the whole or part of the assets and/or undertaking of the other party or the other party enters into an arrangement or composition with its creditors, or other circumstances arise which entitle a court or creditor to appoint a receiver or administrator or to make a winding up order (save as in respect of a solvent reconstruction of such relevant party's group of companies).

Where the Customer is a Small Business Customer, the Customer may cancel the provision of Services at any time prior to the commencement of the provision of those Services, without any form of charge or compensation being required to be paid to the Company.

The Company shall be entitled to terminate the Contract forthwith in circumstances where it also has a right to suspend the provision of the Services.

12.4 CONSEQUENCES OF TERMINATION

The termination or expiry of the Contract shall be without prejudice to any rights or liabilities which have accrued prior to such expiry or termination. Any provision of this Contract which expressly or by implication is intended to survive, shall survive the termination or expiry of the Contract.

Any implied right to terminate for convenience that the Customer may have under applicable law is hereby expressly excluded.

For the avoidance of doubt, in the event of termination of the Contract for any reason, the Customer shall not be entitled to a refund of any pre-paid sums (including, without limit, subscription, rental and/or maintenance charges) whether such sums are attributable to the period before, including or after the date the Contract terminates.

13. CONFIDENTIALITY AND USE OF CUSTOMER'S INFORMATION AND DATA FAIR PROCESSING NOTICE

13.1 The Company and the Customer will take reasonable steps to keep in confidence any information of the other; whether written or oral, of a confidential nature obtained under or in connection with the Contract except to the extent any disclosure is required by law. The Customer and the Company will not, without the consent of the other, disclose such information to any person other than:

13.1.1 their employees, contractors or professional advisers who shall require the information for the Customer or the Company to fulfil its obligations under the Contract; or

13.1.2 in the case of the Customer, its users to the extent that they are required to use or access the Service.

13.2 Information shall not be treated as confidential if it is:

13.2.1 lawfully in the public domain; or

13.2.2 lawfully in the possession of the Customer or the Company before disclosure from the other has taken place; or

13.2.3 obtained from a third person who is entitled to disclose it; or

13.2.4 replicated independently by someone without access or knowledge of the information.

13.3 If the Customer receives a request under the Freedom of Information Act 2000 which encompasses any information provided to the Customer by the Company in connection with the Contract the Customer will notify the Company immediately of the request and give the Company at least ten Business Days to make representations before releasing the requested information (save to the extent otherwise required by law).

13.4 The Customer acknowledges and agrees that the Company may use Personal Data and/or confidential information obtained from the Customer during or following the completion of the Order Form or as a result of the Customer's use of the Equipment or Services and/or arising from or out of the provision of the Equipment or Services, for the following purposes:

13.4.1 administering the Customer's account (including, without limitation, arranging finance with lessors of the Equipment, liaising with any Carriers who are relevant to the provision of the Data Network Services, and sharing the data with members of the Company's Group);

13.4.2 notifying the Customer of changes to the Service, including (without limitation and unless stated otherwise on the Order Form) contacting the Customer regarding potential and/or actual enhancements to or offers in relation to the Service;

13.4.3 enabling the Company to supply the Services and Equipment to the Customer; and

13.4.4 for invoicing purposes.

13.5 The Company will not pass Personal Data obtained from the Customer to any third parties for marketing purposes but may send the Customer information about the Company's (or any member of its Group's) own products and services which it considers may be of interest to the Customer, unless the Customer specifically requests on the Order Form that the Company does not do so.

13.6 If the Customer wishes to have details of the credit reference or the fraud prevention agencies the Company uses to obtain information about the Customer or receive a copy of the information the Company holds about them, it may do so by submitting a request in writing for a copy of the information to the Company's Data Controller at ACS Business Supplies, Kismet Buildings, Otley Road, Baildon BD17 7HB, stating the Customer's full name, address, account number and phone number. The Company may charge a reasonable administration fee for providing such information.

13.7 The Customer warrants, undertakes and agrees that it will grant or procure from its employees and other personnel such consents to the use of Personal Data (referred to above) as may be necessary to enable the Company to use such data for the purposes described in this Condition 18.

13.8 Where a party who has disclosed confidential information so requests and at the end of the Minimum Term or following termination of the Contract for whatever reason, each party who has received any confidential information of the other party shall, subject to Condition 18.9 without delay:

13.8.1 return to the other party, in a form capable of delivery, anything containing or recording the confidential information, whether in the form of documents, computer records, audio tapes, video tapes, CD Roms or any other media; and

13.8.2 certify in writing that any such confidential information not returned has been destroyed or made permanently unusable.

13.9 Save where continuing use or disclosure of such confidential information is necessary for the Company or any member of the Company's Group to exercise its rights or perform Services under the Contract or where the other party is required to maintain such confidential information pursuant to any Relevant Laws.

14. CHANGES TO THE CONDITIONS, SERVICE SPECIFIC CONDITIONS AND CONTRACT

14.1 The Company may change the Conditions and/or Service Specific Conditions at any time and will publish any change in line with Condition 14.2.

14.2 The Company will publish any changes to the Conditions and/or Service Specific Conditions online at www.acsacs.co.uk (or at such other URL as is notified to the Customer by the Company from time to time):

14.2.1 at least thirty days before the change is to take effect for changes that may be of material detriment to the Customer: and

14.2.2 as soon as is reasonably practical in the circumstances prior to the changes taking effect, for all other changes.

14.3 If the Customer wishes to object to any proposed change which is of material detriment to the Customer, the Customer must notify the Company in writing (addressed to Customer Services, ACS Business Supplies, Kismet Buildings, Otley Road, Baildon, BD17 7HB within thirty days of publication of the proposed change, otherwise the Customer will be deemed to have accepted the proposed change. For the avoidance of doubt, the service by the Company of any notice in accordance with Condition 14.2 shall not constitute either acceptance of or an admission by the Company that any proposed change is of material detriment to the Customer, nor shall the service of notice by the Customer under this Condition 14.3 constitute or be deemed to constitute evidence that the relevant change is of material detriment to the Customer.

14.4 The Company may, if requested by the Customer, provide additional services to be included within the Services under such additional terms and Conditions as may be notified by the Company from time to time.

14.5 Subject to Condition 14.1, no variation of the terms of the Contract however notified (save about the manuscript details on the Order Form including, where initialled by both parties, manuscript amendments to the type face, as such details may be inputted by authorised staff of the Company) will be accepted by the Company unless authorised by notice in writing by a Director of the Company.

14.6 The company will advise you in writing of any changes with at least 30 days' notice, this way you will have the clear opportunity to query/dispute anything that is unacceptable prior to these changes being made.

15. FRAUD AND SECURITY

15.1 The Customer shall ensure that usernames, passwords, and encryption keys used by it and/or its personnel and/or users in connection with the Services, Portal and/or Equipment are always kept secure and confidential and are only used by authorised users. The Customer shall inform the Company immediately if the Customer knows or suspects that a username, password, or encryption key has been disclosed to an unauthorised user or is being used in an unauthorised way, or if there is any illegal, fraudulent, or unauthorised use of the Services, Portal or Equipment.

15.2 The Company reserves the right (at the Company's sole discretion):

15.2.1 to suspend access to the Services and/or the Portal through any or all usernames, passwords and/or encryption keys, if at any time the Company thinks that there has been or is likely to be a breach of security (including a breach of the Customer's obligations under this Condition 15); and

15.2.2 to ask the Customer to (in which case, the Customer shall) change any or all the passwords the Customer's uses in connection with the Services.

15.3 The Customer will inform the Company immediately of any subsequent changes to the information the Customer supplies to the Company in connection with the Contract.

15.4 The Customer accepts and acknowledges that neither the Services or the Portal are guaranteed to be secure, and the Company does not guarantee the prevention or detection of any unauthorised attempts to access the Services or the Portal.

15.5 The Customer acknowledges that the Company has no control of a Customer's equipment configuration, voice mail security or other feature services enabled.

15.6 The Company shall not be responsible for call charges or other charges resulting from fraudulent and/or unauthorised use of the Equipment and/or Services and/or the Portal or any use of the Equipment and/or Services and/or the Portal by any unauthorised third parties (who are not employees of the Company) and the Customer agrees to pay all additional charges related to such fraudulent and/or use by unauthorised third parties. The Customer is therefore urged to verify with their equipment provider that all necessary steps to combat fraudulent and/or unauthorised use have been taken.

15.7 Any assistance given by the Company in relation to fraudulent and/or authorised use by the Customer or third parties (or the prevention of such use) will be on an endeavours basis only and no liability can be accepted by the Company for any loss sustained by the Customer via fraudulent and/or unauthorised means that are beyond the Company's reasonable control (save for any fraud and/or authorised use by an employee of the Company acting in that capacity).

15.8 The Customer shall, always, be responsible for: -

15.8.1 preventing unauthorised use of the Services.

15.8.2 maintaining the security of all systems, Services, network elements and Equipment within its (or its employees', agents', or contractors') control; and

15.8.3 maintaining (and ensuring that each of its authorised users always maintains), the integrity and secrecy of all passwords, log-in details and access codes used for the purposes of accessing or using the Services or any systems, network elements or Equipment.

15.9 Without limiting this Condition 15.9, the Customer shall put in place and always comply with the following security measures: -

15.9.1 the Customer shall ensure that the password used in connection with the Equipment and Services is strong and is made up of not less than eight characters which shall include at least one number, one letter and one alphanumerical symbol.

15.9.2 the Customer shall regularly and at least every 6 (six) weeks change the password set out in 15.9.1 above.

15.9.3 the Customer shall restrict access to passwords to key individuals.

15.9.4 the Customer shall ensure that it has up to date anti-virus protections and that it has firewalls in place which are maintained by the Customer in accordance with best industry practices; and

15.9.5 the Customer shall, without delay, follow any security directions given to it by the Company from time to time.

15.10 The Customer shall ensure that when accessing any of its Hosted Data, it shall not access or attempt to access any other data held by the Company. If the Customer gains access to data other than the Hosted Data, it shall notify the Customer immediately.

16. CALL MONITORING

The Company may monitor, and record calls made to or by the Company by or to the Customer (and/or any of their employees or personnel), for training purposes, to improve the quality of its customer services and to assist with complaint handling. The Customer undertakes to make its employees and personnel aware of the rights reserved by the Company under this Condition.

17. ANTI-BRIBERY

17.1 The Customer shall, and shall procure that its officers, employees, agents, and any other persons who perform the services for and on behalf of it in connection with a Contract shall.

17.1.1 comply with all applicable Anti-Bribery Laws.

17.1.2 not offer, promise, give, request, agree to receive, receive, or accept a bribe or financial or other advantage or commit any corrupt act.

17.1.3 comply with the Company's Ethics and Anti-bribery Policy (available on request) as the Company may update them from time to time ("Relevant Policies");

17.1.4 have and shall maintain in place throughout the term of all Contracts its own policies and procedures, including adequate procedures under the Bribery Act, to ensure compliance with the Anti-Bribery Laws and the Relevant Policies, and will enforce them where appropriate.

17.1.5 not do or omit to do any act or thing which constitutes or may constitute an offence under Anti-Bribery Laws.

17.1.6 not do or omit to do any act or thing which causes or may cause the Company and/or its Group to be in breach of and/or commit an offence under any Anti-Bribery Laws; 21.1.7 without prejudice to Condition 17.1.6, not do or omit to do any act or thing which causes or may cause the Company or any member of the Company's Group to be guilty of an offence under Section 7 of the Bribery Act (or would or may do so if the Company was unable to prove that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct); and

17.1.7 provide the Company and any member of the Company Group (at the Customer's cost) with such reasonable assistance as it may require from time to time to enable it to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any Anti-Bribery Laws.

17.2 The Customer shall:

17.2.1 promptly report to the Company and any member of the Company's Group any request or demand for any financial or other advantage of any kind received in connection with the performance of the Contract by it or by its officers, employees, agents, or any other person who performs the services for or on behalf of it in connection with the Contract; and

17.2.2 upon request, certify in writing signed by a director of the Customer that the Customer has complied with all its obligations under this Condition 17. The Customer shall provide such supporting evidence of compliance as Company or any member of the Company's Group may reasonably request.

17.3 The Customer warrants to the Company and all members of the Company's Group that it has not, and its officers, employees, agents and any other persons who perform the services for or on behalf of it in connection with the Contract have not breached any applicable Anti-Bribery Laws; been convicted of any offence involving bribery, corruption, fraud or dishonesty; offered, promised, given, requested, agreed to receive, received or accepted a bribe or financial or other advantage or committed any corrupt act; done or omitted to do any act or thing which constitutes or may constitute an offence under the Anti-bribery Laws; done or omitted to do any act or thing which caused or may cause any person to be in breach of and/or commit an offence under any Anti-bribery Law; done or omitted to do any act or thing which caused or may cause any person to be guilty of an offence under Section 7 of the Bribery Act; or given any financial or other advantage, inducement or reward to any person in connection with the awarding or continuation in force of this Contract.

17.4 The Company and/or any member of the Company's Group may terminate the Contract immediately if the Customer is in breach of any of its obligations under this Condition 17 or if the Company or any member of the Company's Group has reasonable cause to believe that such a breach has occurred or may occur. If the Company or any member of the Company's Group terminates the Contract in accordance with this Condition 17.4, the Customer shall not be entitled to claim any compensation or any further remuneration from the Company or any member of the Company's Group.

18. INTELLECTUAL PROPERTY RIGHTS

18.1 Any Intellectual Property Rights supplied by the Company or any member of the Company Group to the Customer, or specifically produced by the Company for the Customer or any member of the Customer Group, in connection with this Contract, shall be the exclusive property of the Company and/or the relevant member of the Company Group and/or relevant licensor and to the extent that any such rights vest in the Customer shall be deemed to be and shall be assigned to the Company or the relevant member of the Company Group by the Customer. The Customer shall not disclose to any third party or use any such Intellectual Property Rights except to the extent that it is or becomes public knowledge through no fault of the Customer, or as required for the performance of the Customer's obligations under this Contract. Any Intellectual Property Rights belonging to, licensed to or supplied by the Company or any member of the Company Group to the Customer shall be used by the Customer only as expressly permitted under the terms of the Contract and in accordance with the instructions of the Company or any member of the Company's Group.

18.2 Any licence provided by the Company to the Customer in relation to the Intellectual Property Rights shall be personal to the Customer, non-exclusive, revocable, and limited to the United Kingdom and in the absence of earlier revocation shall terminate upon termination of this Contract.

18.3 By using the Services (in particular, but without limitation, the Hosting Services) the Customer shall provide the Company with information and data, title to which shall remain vested in the Customer (or its licensors). The Customer warrants that it has all necessary rights and licences to use and transmit over the internet to the Customer all information and data which will be subject to the Hosting Services and hereby grants the Company a non-exclusive licence to use such information and data for the purposes of performing the Services.

19. GENERAL

19.1 Subject to any deemed acceptance by the Customer under Condition 4.1.3 no forbearance or indulgence shown or granted by the Company to the Customer whether in respect of these Conditions and/or any Service Specific Conditions or otherwise shall in any way affect or prejudice the rights of the Company against the Customer or be regarded as a waiver of any of these Conditions and/or any Service Specific Conditions.

19.2 The Contract (and any non-contractual matters arising out of or in connection with it) shall be governed by and construed in all respects in accordance with English law and the Customer hereby submits for all purposes of and in connection with the Contract to the exclusive jurisdiction of the English Courts (including in relation to non-contractual disputes).

19.3 The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else and no third party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

19.4 Any notice, invoice or other document which may be given by either party under the Contract shall be in writing (except as provided otherwise) sent for the attention of the relevant person, and to the address or email, given on the Order Form (or such other address, email or person as the relevant party may notify to the other party) and shall be delivered personally, sent by email, or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of email, at the time of transmission, in the case of pre-paid first-class post or recorded delivery, 48 hours from the date of posting or if earlier upon receipt and, if deemed receipt under this Condition 19.4 is not within Normal Working Hours, at 9.00 am on the first Business Day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by email, to the email address of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

19.5 Any director or representative of the Customer who signs on behalf of the Customer will be deemed an authorised signatory and thereby the Company shall be entitled to rely on such signatory as binding the Customer to the obligations in this Contract in all respects. 23.6 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

19.6 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract without the consent of the Customer however, the Customer shall, if the Company requires, execute such deeds and/or documents as may be necessary or required by the Company to give effect to any such dealing in such rights and/or obligations.

19.7 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

19.8 The Customer shall not, without the prior written consent of the Company, at any time from the date of the Contract to the expiry of six months after the termination or expiry of the Contract, actively solicit or entice away from the Company, or actively employ or attempt to employ (save where the relevant person has responded to a general advertisement by the Customer for the relevant job vacancy), any person who is, or has been, engaged as an employee or sub-contractor of the Company in the provision of the Services to the Customer. Any consent given by the Company in accordance with this Condition 19.8 shall be subject to the Customer paying to the Company a sum equivalent to twenty per cent of the then current annual remuneration of the Company's employee or sub-contractor or, if higher, twenty per cent of the annual remuneration to be paid by the Customer to that employee or sub-contractor.

19.10 The Company and the Customer agree that the Employment Regulations are not likely to apply to transfer the employment or engagement of any Employee to the Company in connection with the Contract or the termination or expiry of all or part of any contract between the Customer and a Contractor or any other provision of the Services.

19.11 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable, or illegal, the other provisions will remain in force.

19.12 If any invalid, unenforceable or illegal provision would be valid, enforceable, or legal if some part of it were deleted or modified, that provision will apply with whatever minimum modification is necessary to make it valid, enforceable, and legal whilst still giving effect to the commercial intention of the parties.

19.13 Save where the context otherwise requires, in these Conditions a reference to a "person" shall include a company, body corporate, unincorporated association, state, governmental or statutory body or authority, and/or a partnership, as well as a natural person (as appropriate).

19.14 Except with the prior written consent of the other party, neither party shall:

19.14.1 make any public statement about the Equipment and/or Services or otherwise publicise the Contract or any information relating to it; or

19.14.2 use any trademarks or identifying logos owned or licensed to any member of the other party in any manner.

19.15 Nothing in the Contract is to be construed as establishing or implying any partnership or joint venture between the parties, or as appointing any party as the agent or employee of any other party. No party shall hold out any other party as its partner or joint ventures. Except, and to the extent, that the Contract expressly states otherwise, no party may incur any expenses or negotiate on behalf of any other party or commit any other party in any way to any person without that other party's prior written consent.

19.16 Each party shall do and execute or arrange and procure for the doing and executing of, any act and/or document reasonably requested of it by any other party to implement and give full effect to the terms of the Contract.

19.17 The Contract constitutes the entire agreement between the parties and supersedes any prior agreement or arrangement in respect of its subject matter. Neither party has entered the Contract in reliance upon and nor shall they have any remedy in respect of, any representation or statement (whether made by the other party or any other person) which is not expressly set out in the Contract. Nothing in this Condition 19.17 shall be interpreted or construed as limiting or excluding the liability of either party for fraud or fraudulent misrepresentation.