

TERMS AND CONDITIONS

In this agreement, the following words shall have the following meanings:

"Additional Charges" means Charges which may be made (in addition to the Support Charge) for additional services supplied pursuant to condition 6.3.3;

"Annual Minimum Call Spend" means the minimum annual sum of money as set out on the Order Form or the Tariff that will be spent by the Customer on call charges commencing on the Connection

Date or any anniversary thereafter during the term of the Contract;

"Business Day" means any and all days between Monday and Friday in any week but excluding English bank holidays or public holidays;

"Call Commissions" means such sums payable by the Company to the Customer for the use of premium rate number(s);

"Call Costs" means the amount the Customer must pay for calls which may vary from time to time;

"Call Spend" means the aggregate of the cost of all the calls made by the Customer in any given month;

"Cancellation Charge" means the costs to be paid by the Customer being the aggregate of the Installation Charge, the Connection Charge, the Service Charge and (where applicable) the residue of

the Annual Minimum Call Spend for the remainder of the Minimum Term; which in any event shall not be less than £50.00;

"Carrier" means the relevant third party telecommunications operator or third party network provider;

"Charges" means the, the Connection Charge, the Installation Charge, the Service Charge, the Call Cost, Additional Charge, Line Rental, Tariff and any other sums which the Customer must pay under the terms of this Contract;

"Commencement Date" means the commencement date for the Minimum Term;

"Connection Charge" means the amount that the Customer must pay for connection to the Network;

"Company" means Selective Networks Limited (Company Registration Number: 07453163) whose registered office is situate at Salts Mill, Piazza Offices, Victoria Road, Saltaiere, BD18 3LA and the expression "Company" includes the Company's permitted assigns employees and agents;

"Connection Date" means the date when the Carrier having received the relevant information from the Company is in a position to and has agreed to commence provision of the Network Service to the Customer;

"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 incorporated into the Contract in accordance with condition 2.1;

"Credit Limit" means the monthly financial credit limit as specified on the Order Form

"Customer" means the person, firm or company specified on the Order Form and any other person reasonably appearing to act within that person's, firm's, or Company's authority and includes

where relevant the Customer's permitted assigns employees and agents;

"Delivery" means the point that the Equipment arrives at the Customer's Sites before (where applicable) the unloading of Equipment from the delivery vehicle and "Delivered" shall be construed

accordingly;

"Equipment" means the equipment and/or software related products to be supplied under the Contract as set out in the Order Form (and also has extended meanings under condition 5.4.2 and

condition 6 in the case of and for the purposes of those conditions only);

"Equipment Price" means the price for the Equipment as stated in the Order Form

"General Conditions" means the general conditions of entitlement set out in the notification issued by the Director General For Telecommunications on 22 July 2003, in accordance with section 48(1)

of the Communications Act 2003, pursuant to section 45 of said act, as may be amended from time to time;

"Installation" means the physical installation of Equipment at the Customer's Sites;

"Installation Services" means services relating to the supply and Installation of Equipment (where applicable);

"Installation Charge" means the charge for the Installation Services;

"Line Rental" means the cost for the provision of telephone line;

"Maintenance Service" means the obligation set down by the Company for the maintenance of the Equipment as detailed in the Order Form.

"Minimum Term" means the minimum contract period applying to each of the Services commencing on the Commencement Date and expiring on the day at the end of the minimum period set out in

the Order Form in the absence of which such period shall be 12 months from the Commencement Date;

"Network" means the telecommunication system used by the Company to provide the Services from time to time;

"Network Operator" means the network operator who operates the wireless network or networks to which the SIM Cards are connected.

"Network Services" means the provision of a Network for the delivery of the Services.

"Normal Working Hours" means 9am to 5.00pm on any Business Day;

"Number" means either (i) such telephone number from within a national number group range as may be allocated by the Company and/or the Carrier to the Customer from time to time ("Company

Number") or (ii) such telephone number not being a Company Number from within a national number group range and as may be programmed by the Company and/or the Carrier for the purposes of

making available a Network in respect of such telephone number;

"Order Form" means the order form 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,

and constitutes the Customer's order;

"Services" means all services to be provided by the Company to the Customer under this Contract

"Service Specific Conditions" means any additional terms and conditions which are to apply to the Contract as specified in the Order Form;

"SIM Card" means the subscriber identity module supplied by the Network Operator (and which shall at all times remain the property of the Network Operator), which is allocated to the Customer by

Company, and which contains the Number.

"Site" means a place of business at which the Services and/or Equipment are to be provided as specified in the Order Form;

"Support Charge" means the support charge for the Maintenance Services as set out on the Order Form;

"Tariff" means the Company's normal charges for all its services;

"User Instructions" has the meaning given to it in condition 6.5.2.

1.2 In this Contract, unless the context otherwise requires:

1 references to any other document or any provision thereof shall be construed as references thereto as it is in force for the time being and as amended in accordance with the terms thereof or, as the case may be, with the agreement of the relevant parties or the consent of a specified party;

2 words importing the plural shall include the singular and vice versa and words importing the masculine gender shall include the feminine and vice versa and words denoting persons shall include companies;

3 any clause headings in this Agreement are for convenience of reference only and shall not affect its interpretation;

2. CONTRACT FORMATION

2.1 The details recorded on the Order Form, together with these conditions, the Tariff and any other Service Specific Conditions, shall be the exclusive terms and conditions of the Contract between the parties and any such Contract shall be conditional only upon the credit status of the Customer being to the satisfaction of the Company (in its sole discretion) and, in respect of Network Services, the conditions set out in condition 5.2.1 being met.

2.2 All quotations and tenders are given and contracts are made by the Company subject to and only upon these conditions, the Order Form and any Service Specific Conditions, which cannot be varied unless previously agreed in writing by the Company and these Conditions and any relevant Service Specific Conditions supersede and override all other terms and conditions appearing elsewhere including any terms and conditions of the Customer and any course of dealing established between the Company and the Customer.

2.3 In the event of a conflict between these Conditions and any Service Specific Conditions, the Service Specific Conditions will prevail in respect of the relevant Service. In the event of a conflict between these Conditions, any Service Specific Conditions and the Order Form, the Order Form will prevail in respect of the relevant Service.

2.4 Any illustrations, samples or descriptive material, including drawings, specifications of weight, capacity or dimensions and particulars of shade shall not form part of the Contract but shall be treated as approximate only unless specifically stated otherwise. Any savings quoted are 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.

2.5 No variation of the terms of the Contract however notified (save with regard to 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 sales staff) will be accepted by the Company unless authorised by notice in writing by a Director of the Company.

2.6 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 2.6) 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.

2.7 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 (to include without limitation any employee, agent or contractor) shall not do such act or thing.

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 be responsible for ensuring 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 the supply of any Services (as the case may be) by the Company are accurate and fully describe the Customer's requirements and the Customer shall be liable in respect of any 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.

4. SUPPLY OF EQUIPMENT AND INSTALLATION SERVICES

In the event that the section related to Equipment is completed on the relevant Order Form, this condition 4 shall apply to the Contract.

4.1 DELIVERY

4.1.1 In consideration of payment of the Equipment Price pursuant to condition 9.1 the Company shall take reasonable steps to deliver the Equipment and where applicable supply the Installation Services 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 for the execution of the Contract, but such time is not guaranteed nor deemed to be 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 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 Equipment Price within seven days of such deemed delivery date.

4.2 CONNECTION

4.2.1 The Customer shall be responsible for the Connection Charge.

4.2.2 The Customer shall ensure that a suitable earthed mains electricity supply of 240v 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 3 metres of such pieces of Equipment.

4.2.3 The Customer shall prepare the Site(s) in accordance with the Company's instructions so that any necessary Equipment can be installed. The Customer will meet the costs of preparing the Site(s).

4.3 PROPERTY AND RISK

4.3.1 The Equipment shall be at the Customer's risk from the moment of Delivery or deemed Delivery (as described in condition 4.1.3) whether or not property in the Equipment has passed or payment or part payment made therefore, and thereafter the Customer shall be responsible for insuring the Equipment.

4.3.2 Notwithstanding Delivery and the passing of risk, the property in the Equipment supplied under the Contract shall not pass to the Customer until the Company has received in cash or cleared funds payment for the Equipment, Connection Charge and Installation Charge (where applicable) and all other equipment and/or services agreed to be sold by the Company to the Customer for which payment is then due.

4.3.3 Until such time as the property 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 insured and identified as being the Company's property until title passes.

4.3.4 Until such time as the property 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 to 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 repossess such Equipment.

4.3.5 The Customer shall not, without the written consent of the Company, be entitled to pledge or in any way charge by way of security for any indebtedness any Equipment which remains the property of the Company, but if the Customer does so all moneys 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-clauses of this condition 4.4, the Company shall, for a period of twelve months from the date of Delivery or Installation (where applicable) whichever is the later event, at its option and without cost to the Customer 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 Installation (only where the Company supplies 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 Installation (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 Where the Customer enters into an agreement for maintenance of the Equipment with a third party, the Company's liability for repair, replacement, renewal shall be transferred to the relevant third party maintenance provider on Delivery, subject only to the Company's liability in respect of defects arising on or before Delivery of the Equipment provided that the Customer notifies the Company within three Business Days of Delivery 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 the Customer's neglect, misuse, faulty maintenance 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 will be delivered by the Company to the Customer free of charge. Any Equipment 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 call-outs where the damage has resulted from misuse or unauthorised repair or alteration of the Equipment by the Customer.

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

4.5 TRADEMARKS AND BRANDING

4.5.1 The Company shall be entitled to fix to any Equipment legends bearing the Company's and/or its third party supplier's name and/or trademarks or other marks ("Marks")

4.5.2 The Customer shall ensure that no Marks affixed to the Equipment are removed or defaced at any time.

5. NETWORK SERVICES

In the event that the section(s) relating to Network Services is completed on the relevant Order Form, this condition 5 shall apply to the Contract.

5.1 DURATION. Subject to earlier termination under condition 13 or as otherwise stated in this condition 5:

5.1.1 The Network Services will commence on the Connection Date and shall continue for the Minimum Term as set out in the Order Form.

5.1.2 The Company may cancel this Contract at any time before the Services are activated.

5.1.3 Upon the expiry of the Minimum Term, or any anniversary thereafter, the Contract will renew automatically for further periods of 12 months or the original contract term, whichever is greater.

5.2 SUPPLY OF NETWORK SERVICES

5.2.1 Any order for Network Services which is accepted by the Company pursuant to condition 2.1 is conditional on the following:

(a) the Company carrying out a survey which reveals to the Company's satisfaction that it is possible for the Company to supply the Network Services and 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; and
(b) that the Network Services can be provided, and the Company makes no warranty that the Network Services can be provided until lines have been installed and are operational.

5.2.2 The Company undertakes to use reasonable endeavours to supply the Network Service to the Customer and to provide the Network Services with due skill and care as and from the Connection Date subject to these conditions. The Customer acknowledges that the Network Services cannot be provided fault free and the Company does not warrant error free or uninterrupted use of the Network Services. Notwithstanding any other provision of these conditions, the Company shall not be liable to the Customer in contract, tort, or otherwise for any acts or omissions of Carriers which affect or otherwise impact the Network.

5.2.3 Subject to the continuing supply of the service by the relevant Carrier, in the event of a fault occurring in the Network the Company will use reasonable endeavours to rectify the fault as soon as practicable.

5.2.4 The broadband element (if any) of any Network Services does not include any modems or other equipment that the Company may supply to the Customer under a separate contract.

5.2.5 The speed of any broadband element (if any) of the Network Services depends on a number of factors including distance from the exchange, local availability and line test.

The Company cannot guarantee that the Customer's line(s) will produce top speeds of up to the maximum speed advertised as the final speed is governed by factors that are beyond the Company's reasonable control.

5.2.6 The Customer warrants, represents and undertakes that it is the owner of, or that it is authorised by the owner of, any trade mark or name that the Customer wishes to use as its registered domain names ("Domain Names") and use as part of the Customer's uniform resource locator ("URL").

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

5.2.8 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.

5.3 SUPPLY OF TELEPHONE NUMBERS

5.3.1 The Customer hereby acknowledges and accepts that under the General Conditions the Director General has the power to withdraw an allocation of telephone numbers and the Carrier may withdraw an allocation of telephone numbers to the Company and therefore any new telephone numbers provided to the Customer under the Contract prior to their connection cannot be guaranteed as available and therefore the Company shall not be liable for any costs incurred by the Customer in the use of such telephone number (including, without limitation, in the advertising of such telephone number).

5.3.2 The Customer acknowledges it does not own or have any right to sell any number provided to it by the Company.

5.4. USE OF THE NETWORK SERVICES

5.4.1 The Customer shall be responsible for the safe custody and safe use of the Network Services and without prejudice to the generality of the foregoing the Customer agrees and undertakes:

(a) to use the Network Services in accordance with such conditions as may be notified to it in writing by the Company from time to time;

(b) not 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) or any other requirements under the General Conditions to be connected to the Network 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 Network Service; (c) not to contravene the General Conditions or any other relevant regulations or licences granted there under;

(d) not to use the Network as a means of communication for a purpose other than that for which the Network is provided and as may be set out in any relevant literature supplied by the Company from time to time;

(e) not to use the Network to communicate, deliver, knowingly receive, upload, download, use or re-use any material or information which is intended to be a hoax call to emergency services or is of a defamatory, offensive, abusive, indecent, obscene or menacing character, or which does or is intended to cause annoyance, 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 Network Services;

(f) not to use the Network in a manner which constitutes a violation or infringement of the rights of any other party;

(g) to maintain its telecommunications apparatus at all times during the period of the Contract in good working order and in conformity with any relevant regulatory standards or approvals for the item as from time to time applicable;

(h) to provide the Company with all such information as it reasonably requests relating to the Customer's telecommunications apparatus;

(i) to implement adequate control and security over the Network Services provided to the Customer including but not limited to the prevention of viruses, worms, Trojan horses and/ or any calls generated by rogue diallers or hackers;

(j) not to use the Network Services in a way that breaches any legislation, regulation or code or any licence applicable to the Customer or that is in any way unlawful or fraudulent; and

(k) not to send or procure the sending of any unsolicited advertising or promotional material.

5.4.2 Any equipment installed or provided by or on behalf of the Company for the purposes of providing the Network Service (excluding for the avoidance of doubt any Equipment purchased under a Contract by the Customer for which condition 4 applies) shall at all times 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 5.4.2 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.

5.4.3 The Customer is committed to using the Company for both line rental and calls. Should the Customer use an alternative carrier for calls once the Contract has commenced, or prevent the Company from carrying calls in any monthly period so that the call charges are significantly reduced in comparison to the Customer's previous average invoicing profile, the Customer agrees that the Company may charge the Customer the differential between the average monthly spend on calls prior to such commencement or prevention and the subsequent monthly spend on calls (if any).

5.4.4 The Network Services are provided solely for the Customer's use and the Customer's cannot resell or attempt to resell the 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.

5.4.5 The Company does not warrant or guarantee the accuracy or completeness of any of the information, sound, software and any other materials (in whatever form) and services made available to the Customer as part of the Network Services (the "Content") or any further information or results which may be derived from it. The Customer acknowledges that it will not rely on any Content in making any business or other decision and that the Customer uses of the Content is at its sole risk.

5.4.6 The Content is protected by copyright, trademark and other intellectual property rights, as applicable. The Customer must not and must 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.

5.4.7 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.

5.4.8 The Customer warrants, represents and undertakes that any information the Customer makes available on their website, both the Customer's ("Customer Information") or 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.

5.4.9 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.

5.4.10 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to HMRC, Trading Standards and/or OFCOM and their successors from time to time) in connection with any misuse or suspected misuse of the Network and the Customer consents to the Company co-operating with any other telecommunications operators in connection with any suspected fraudulent activity related to or connected with the Network and agree that the Company will be entitled to divulge the name and address and account information relating to the Customer to such third parties.

5.4.11 The Customer acknowledges that the broadband element (if any) of the Network Services is provided to other users and the Company owes a duty to these users as a whole to preserve its network integrity and avoid 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.

5.4.12 To prevent spam from entering and affecting the operation of the Company's systems and the Network, 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 gives no warranties whatsoever that such technology will be effective in any way, including against unsolicited emails or against any viruses, worms, Trojan horses or other programs or devices that are apparently intended to access and modify, delete or damage data file(s) or computer program(s).

5.4.13 The Customer will not misuse the Network in any way and will use all reasonable endeavours to ensure that the number of telephone calls made to the Number(s) do not significantly exceed the Customer's capability to answer such calls or cause congestion (the existence of congestion to be reasonably determined by the Company taking into account normal levels of traffic on the network) and, in particular, shall give the Company at least 1 Business Day's notice of any intention to advertise in the media or otherwise to publicise the Number(s). Where the Company notifies the Customer of the occurrence of any such congestion or misuse, then the Customer shall immediately take all reasonable steps (which shall include, but not be limited to, arranging additional network capacity, adjusting the Customer's promotional activities or using call bureau, for the relevant period) to prevent such congestion and/or misuse continuing.

5.5. SUPPLY OF MOBILE TELEPHONY

In the event that the section(s) relating to mobile telephony is completed on the relevant Order Form, this condition 5.5 without prejudice to the generality of condition 5 shall apply to the Contract.

5.5.1 **DURATION.** Subject to earlier termination under condition 13 or as otherwise stated in this condition 5:

5.5.2 The Customer agrees to pay all of the Charges due in respect of the Mobile Services as set out in the Tariff in full without any deduction or set off.

5.5.3 The Customer is responsible for all Call Cost incurred as a result of use of the Mobile Services by the Customer or any third party using the SIM Card.

5.5.4 The Customer agrees that it is procuring the SIM Cards and Mobile Services solely for its own use and furthermore that it will not resell or otherwise act as any form of distributor in respect of the SIM Card or the Mobile Services.

5.5.5 The Customer agrees that in using the Mobile Services:

5.5.5.1 The Company is acting as the agent of the Network Operator and as such has no knowledge of, involvement with, or liability for the specific content of any text messages sent by the Customer using the Mobile Services; and 5.5.5.2 the Customer must ensure that the Mobile Services are not used or permit to be used:

(a) fraudulently or in connection with a criminal offence; or

(b) for the purpose of sending unsolicited text messages; or

(c) to send any material which is offensive, abusive, indecent, defamatory, obscene or menacing, a nuisance or a hoax in breach of any person's intellectual property rights or rights of privacy or is otherwise unlawful; or (d) to cause annoyance, inconvenience or needless anxiety; or (e) other than in accordance with the acceptable use policies of any connected telecommunications networks.

5.5.6 In the event that the Customer uses the Mobile Services in breach of this Contract or fails to pay any monies due on the Contract, without prejudice to the generality of these conditions, the Company reserves the right to suspend or terminate the Mobile Services. The Customer will fully reimburse Company in respect of any sums the Company is obliged to pay to any third party and/or the Network Operator, and any other costs incurred by the Company (including without limitation properly incurred legal fees), as a result of the Customer's breach.

5.5.7 The Customer undertakes with the Company that it will use its best to:

5.5.7.1 use the SIM Card and/or the Mobile Services only for any purpose for which it was designed or intended; and

5.5.7.2.3 notify the Company immediately (and to confirm in writing) on becoming aware that any Equipment or SIM Card has been lost or stolen or that any person is making improper or illegal use of the Equipment, SIM Card or the Mobile Services. The Customer will be responsible for any Charges incurred as a result of unauthorised use of any Equipment, or SIM Card, or the information contained within a SIM Card, until the Company has received a request from the Customer to suspend the Mobile Services to that Equipment or SIM Card.

5.6 TRANSFER FROM THIRD PARTY SUPPLIERS

5.6.1 Where the transfer of lines and services from third party suppliers is selected by the Customer then the provision of any and all existing services supplied to the Customer by such third party supplier will be automatically transferred to the Company and charged for in the Company's invoices in accordance with the Order Form and/or the Tariff.

5.6.2 The Customer hereby acknowledges and accepts that it is the Customer and not the Company who is liable for any charges (including without limitation any early termination charges) made by third party suppliers for any transfer of lines and services or otherwise, unless it is clearly identified and agreed in writing on the Order Form at the time of the Customer signing such Order Form that the Company will pay for specified charges.

5.6.3 If the Customer is migrating to the broadband element of the Network Services from a third party provider of an alternative broadband service, the Customer will need to obtain a Migration Authorisation Code ("MAC") from that service provider. This MAC will be valid for thirty days from the date of issue and can only be used once. It is the Customer's responsibility to obtain this code and to ensure that the Customer provides it to the Company in sufficient time to process the Customer's migration. the Company will not be responsible for any delay, costs, expenses, loss or damage arising or incurred by the Customer through failure to connect the Customer to the broadband element of the Network Services.

5.7 SUSPENSION AND/OR TERMINATION OF NETWORK SERVICES

5.7.1 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

the Network Services until further notice without further liability to the Customer having given the Customer reasonable notice either orally (confirming such notification in writing) or in writing in the event that:

- (a) the Customer is in breach of a material term of these Conditions including but not limited to the Customer's failure to pay the Equipment Price and/or the Charges (or any of them) to the Company on the due date or if the Customer misuses the Network;
- (b) the Company is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative authority;
- (c) the Company has reasonable grounds to believe that the Network Services are being used fraudulently;
- (d) any licence under which the Customer has the right to run its telecommunications is cancelled withheld suspended.
- (e) the Company is entitled to suspend provision of any other telecommunications service under the terms of any other agreement with the Customer.

5.7.2 The customer will remain liable for all Charges during the period of suspension. The Customer shall reimburse to the Company all reasonable costs and expenses incurred by the implementation of a suspension pursuant to condition 5.7.1 and/or the recommencement of the provision of the Network Service as appropriate, save in the case of a suspension, pursuant to condition 5.7.1(b).

5.7.3 Without prejudice to any other right of termination under these Conditions, the Company may terminate the Contract for Network Services forthwith in the event that its right or the right of the relevant Carrier to provide the Network is withdrawn by the Director General pursuant to the General Conditions or otherwise.

5.7.4 On termination of the Contract for any reason the Company may forward calls made to Numbers previously in use by the Customer to appropriate recorded announcements or other destinations as it sees fit.

5.8 VOICE OVER INTERNET PROTOCOL (VOIP) NETWORK SERVICES

5.8.1 Any order for VOIP services which is accepted by the Company, pursuant to condition 2.1 is conditional on the Customer acknowledging that the VOIP service:

- (a) may not offer all the features or resilience the Customer may expect from a conventional phone line;
- (b) is not a Publicly Available Telephony Service (PATS) and as a result, may sometimes be limited, unavailable or disrupted due to events beyond the Company's control e.g. power disruptions, failures or the quality of the broadband connection and
- (c) has various limitations including but not limited to the inability of the emergency services to translate a virtual VOIP number to the caller's location.

5.9 DISPUTE RESOLUTION

5.9.1 The Company will attempt to resolve any dispute that the Customer may have with the Company. If the dispute cannot be resolved within 12 weeks of the Customer raising the dispute with the Company, then the Customer may refer the matter to:

- (a) the Telecommunications Ombudsman, via the website (www.otelo.org.uk) or by telephone on 0845 050 1614; or
- (b) OFCOM, the communications regulator via the website www.ofcom.org.uk or by telephone on 020 7981 3040 or 0300 123 3333.

5.9.2 Any dispute must be submitted in writing to the Company's Customer Care Centre at The Granary, Manor Business Park, East Drayton, DN22 0LG

5.9.3 Nothing in this clause 5.8 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. MAINTENANCE SERVICES

In the event that the section relating to Maintenance Services is completed on the relevant Order Form, this condition 6 shall apply to the Contract.

6.1 DURATION OF MAINTENANCE SERVICES

Subject to the payment of the Support Charge each year by the Customer, the Company shall supply to the Customer the Maintenance Services

6.2 PROVISION OF MAINTENANCE SERVICES

6.2.1 The Maintenance Services shall apply only in respect of Equipment as set out in the Order Form and any other equipment which it is agreed between the parties in writing shall be included under the Contract for Maintenance Services, which for the purposes of this condition 6 shall be deemed Equipment.

6.2.2 Unless it is otherwise stated on the Order Form that a different level of Service (in terms of response times and hours of attendance) will apply, the Company will, within two Business Days, on receipt of notification from the Customer of a request for the provisions of Maintenance Services and the Equipment being made available, commence during Normal Working Hours all adjustments, repairs and replacements of defective components resulting from fair wear and tear and/or faulty workmanship of the Company and/or materials which in the opinion of the Company are necessary for the proper functioning of the Equipment.

6.2.3 Where the Company replaces defective Equipment or part thereof, it shall be entitled to supply serviceable reconditioned items in substitution thereof. These conditions shall continue to apply to the Equipment embodying such substituted items.

6.2.4 The Company does not warrant that the provision of Maintenance Services (or any additional services supplied pursuant to conditions 6.3.1 and 6.3.2) will ensure that the Equipment operates without interruption or error.

6.2.5 Subject to spare part availability, the Company shall provide all necessary spare parts (in the reasonable opinion of the Company) required to keep the Equipment in satisfactory operation. All replaced parts shall become the property of the Company.

6.2.6 Subject to condition 6.3.1, Maintenance Services shall not include the following (the "Excepted Services"):

- (a) the repair of damage to the Equipment resulting from accident, neglect or causes other than ordinary use including failure to observe any instructions supplied by the Company regarding the operation of the Equipment;
- (b) repair, labour or materials required as a result of theft, vandalism, fire, lightning, water damage, fluctuations in electrical power supply, unsatisfactory environmental conditions, telephone line conditions, the connection of unapproved accessories, attachments or other devices or as a result of breach by the Customer of any of the terms of condition 6.5;
- (c) the alteration, modification or maintenance of the Equipment by any other party other than the Company without the Company's prior written consent;
- (d) the transportation or relocation of the Equipment save where the same has been performed at the request of the Company;
- (e) 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;
- (f) any defect or error in any software used upon or in association with the Equipment;
- (g) the supply of replacement cassettes, aeriels, aerial systems and batteries;
- (h) the reprogramming of the Equipment to provide improved or modified service or facilities;
- (i) Equipment faults caused by telephone area code changes or changes in Carriers; and
- (j) ancillary items including but not limited to answer phones, analogue phones or devices, call loggers, payphones, computers, servers, UPS, batteries, public address systems, printers, cabinets, external music on hold sources, any cabling and consumables unless otherwise agreed in writing.

6.3 ADDITIONAL CHARGES

6.3.1 The Company may upon request by the Customer provide all or any of the Excepted Services (as referred to in condition 6.2.6 above) but shall be entitled to charge

for the same by levying Additional Charges in the manner described in condition 6.3.3 below.

6.3.2 Without prejudice to condition 6.3.1 above the Company shall be entitled to levy Additional Charges in the manner described in condition 6.3.3 below if:

(a) Maintenance Services are provided in circumstances where any reasonably skilled and competent person would have judged the Customer's request to have been unnecessary; and/or (b) 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 (in respect of a charge for the investigation and/or for any call-out including, without limitation, Equipment changed in a postal exchange where the Company reserves the right to make a charge up to the replacement value of the item in question); and/or (c) where a fault that has been reported to the Company has been a non-Equipment fault but instead one of the Carrier (in respect of a charge for the call-out in accordance with the Company's then current Tariff).

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

(a) upon completion of the work in respect of additional services supplied under condition 6.3.1 and 6.3.2(a); and (b) following completion of the investigation and/or call out in respect of condition 6.3.2(b); and (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.

6.3.4 In respect of a fault which is a failure by the Carrier as referred to in condition 6.3.2(c) the Company will provide to the Customer such assistance as it shall be reasonable in the circumstance to remedy the fault, however this does not constitute any acceptance of liability for such costs by the Company and, for the avoidance of doubt, the Company is not liable to the Customer any fault which is a failure by the Carrier or any breach however occasioned by the Carrier refuses.

6.4 DISCONTINUED SERVICES

6.4.1 Without prejudice to condition 13 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 specified Equipment (without further liability to the Customer) in the event that the Company's supplier and/or the manufacturer has ceased to supply such Equipment PROVIDED THAT the Company shall notify the Customer as soon as reasonably possible after it is aware of any cessation in supply of the Equipment and shall arrange with the Customer to either terminate the Maintenance Service or replace or upgrade the affected Equipment at the Customer's expense.

6.4.2 Without prejudice to condition 13 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 further liability to the Customer) in the event that any necessary approvals required by the Company to maintain any of the Equipment are disallowed or revoked by any government or regulatory agencies.

6.5 The Customer undertakes that:

6.5.1 it shall ensure that the Equipment is used in a normal and proper manner;

6.5.2 it will carry out such routine day-to-day preventive maintenance measures as may be recommended in the customer operating instructions and manufacturer's written recommendations supplied with the Equipment ("User Instructions");

6.5.3 it will 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;

6.5.4 it will not permit 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

(a) the Company so agrees in writing, or

(b) 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;

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

6.5.6 it will not employ a third party to make any alterations to the programming or physical structure of the Equipment;

6.5.7 it will ensure that the environmental conditions for the Equipment are maintained in accordance with the User Instructions;

6.5.8 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.

6.6 CHANGE OF LOCATION

6.6.1 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 shall provide relocation and installation service, the cost of which shall be paid by the Customer in accordance with the Company's then current Charges applying at that time, and such payment shall be in addition to the 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 undertakes to 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 to arrange finance for the purchase of Equipment then the Company acts as an agent for the Customer and not for the finance provider.

7.3 The Customer undertakes to supply all information requested by the selected finance provider(s) who will register searches with one or more credit agencies, who will add to the person's records details of the searches and these will be seen by other organisations that make searches.

7.4 In the event that the Company is unable to obtain finance on the terms originally proposed then the Company shall return the deposit received from the Customer without further liability to the Customer.

7.5 Where third party indemnities are required by the finance provider failure to provide such indemnities shall constitute a breach of these Conditions and shall entitle the Company to retain any deposit paid by the Customer.

7.6 After Delivery and Installation (where applicable) is completed any failure by the Customer to complete the finance agreement documentation shall render the Customer liable to pay to the Company the whole of the Equipment Price within seven days of presentation of an invoice.

8. PRICE AND CHARGES

8.1 EQUIPMENT

8.1.1 The Equipment Price is as stated on the Order Form and is exclusive of VAT or any other tax or duty payable. The amount of such taxes or duties shall be added to the Equipment Price and shall be payable by the Customer in the same manner as the Equipment Price.

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

8.2 NETWORK SERVICES

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

8.2.2 The Company shall have the right to alter the Charges from time to time by giving the Customer not less than 14 day's notice.

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. The Company reserves the right to charge for usages which have been retrospectively allocated to the Customer by the Carrier and the Customer shall not raise any objection thereto.

8.2.4 Line Rental is payable from the Connection Date.

8.2.5 If the Customer has agreed to an Annual Minimum Call Spend and at the end of any given year (beginning on the Connection Date or any anniversary thereof), the Customer has not incurred the Annual Minimum Call Spend, or if the Customer terminates the Contract in any way other than pursuant to clause 13, the Customer will be liable to pay the difference between the Charges incurred during that year in relation to call spend and the Annual Minimum Call Spend.

8.2.6 The Company reserves the right to apply a monthly minimum threshold of at least £7.00 per Customer account to keep the account operating at a viable level. This charge shall only apply to the telephone services element of Network Services.

8.3 MAINTENANCE SERVICES

8.3.1 The Customer shall pay to the Company the Support Charge in accordance with condition 9.3.

8.3.2 The Company shall have the right to alter the Support Charge from time to time by giving the Customer not less than 14 day's notice.

8.4 VALUE ADDED TAX

All sums referred to under these conditions, the Order Form 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 invoice.

9. PAYMENT

9.1 EQUIPMENT

9.1.1 A deposit equal to at least 50% of the Equipment Price is required at the time of the placing of the order. The balance of the Equipment Price as defined in condition 8.1.1 is payable immediately upon completion of Delivery, unless a different arrangement is agreed on the Order Form.

9.2 NETWORK SERVICES

9.2.1 Unless otherwise provided for in this Contract, the Customer shall be invoiced monthly in arrears by the Company and shall pay the Charges by Direct Debit. Payment is due when the Customer receives the bill.

9.2.2 If the Customer decides to pay for the Services other than by direct debit the Company reserves the right to charge an additional manual billing fee providing that the Company gives the Customer notice of such charge.

9.2.3 If Payment is not made by the due date the Company may cancel or suspend the Services and charge interest on all sums outstanding at the rate of 8% above the base rate of Barclays Bank plc.

The interest rate will be applied from the bill date to the date of actual payment.

9.2.4 The Company reserves the right to charge for each reconnection of lines in circumstances where a line has been suspended due to non or late payment of the Services provided.

9.2.5. The Company reserves the right to charge a reactivation charge in the event that installation of a new line or reactivation of an existing line is required following disconnection of the Services.

9.2.6 Line Rental is payable month in advance, unless expressly agreed in writing by the Company.

9.2.7 The Call Costs are determined by the Carrier and not the Company and will be subject to change in cost at any time without notice.

9.3 MAINTENANCE SERVICES

9.3.1 Unless otherwise agreed, the Customer will pay the Support Charge to the Company by Direct Debit in advance of the relevant period as set out in the Order Form.

9.3.2 Where the Company has agreed to raise an Support Charge annually the Customer will pay the charge in advance of the Commencement Date and annually thereafter upon each anniversary of that date.

9.4 If payment of any sum payable to the Company is not made on or before the due date the Company shall be entitled to charge interest thereafter on such sum at the rate of 8% per annum above the current base rate of Barclays Bank plc such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month.

9.5 The Company will send invoices to the Customer via email (e-billing) to the e-mail address notified by the Customer to the Company. If the Customer does not give a valid email address, the invoice will be sent to the registered address of the Customer at an additional cost to the Customer as set out in the Order Form.

9.6 If the Company is unable, for whatever reason, to recover the sums due under the Customer's account within 4 days following the due date for payment, the Company reserves the right to suspend all or any of the Services.

9.7 If the Customer's account remains unpaid the Company may require a security deposit of three times the average monthly invoice or payment in full for the next 12 months before the Company will reinstate the Service.

9.8 If the Customer's account remains unpaid for a period of 32 days after the original due date for payment, the Services may then be terminated by the Company.

9.9 If the Customer's account remains outstanding for any reason after the original due date for payment, then:

9.9.1 the Customer will be charged an administration fee for each piece of correspondence in connection with the recovery of the overdue amount; and

9.9.2 the Company reserves the right to refer the outstanding account to a debt collection agency. If the Company is required to instruct a debt collection agency to collect payment (including interest and late payment charges) on its behalf the Customer must pay the Company's costs payable to the agency, who will add the sum to the Customer's outstanding debt.

9.10 The Customer is required to ensure that the name of the account holder is the same as the name on the payment details provided. The Company accepts no responsibility for charges incurred as a result of inaccurate information given by the Customer in relation to bank and account details.

9.11 If the Customer cancels an active Direct Debit instruction once the Contract has commenced an additional administration fee will be added to the monthly invoice until the Direct Debit is reinstated.

9.12 The Company may, without notice, withhold any payments due to the Customer under the Contract or any other agreement between the Company and the Customer if the Company has reason to believe the Customer is in breach of the Contract.

9.13 If any sum owed by the Customer to the Company under the Contract or any Contract with the Company is not paid by the due date, the Company may deduct this sum from any payment or credit due to the Customer under the Contract or any other Contract with the Company.

9.14 Payment of all sums due to the Company shall be made without any set-off, deduction, counter-claim whatsoever.

9.15 If the Customer intends to dispute any charge on an invoice the Customer must do so in writing to the Company within 14 days of the date of the invoice and provide the Company with all relevant information in support of the disputed charge. Where the disputed charge(s) amount to:

(a) less than 5% of the total charges listed on the invoice, the Customer will pay the full amount of the invoice; or

(b) more than 5% of the total charges listed on the invoice, the Customer must pay the remaining amount of the invoice that is not in dispute.

10 SITES

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

10.1.1 the Customer shall permit or procure permission for the Company and any other person(s) authorised by the Company to have reasonable access to the Customer's Sites, Equipment and any other relevant telephone system and other equipment and shall provide such reasonable assistance as the Company requests.

10.1.2 The Company will normally carry out work, by appointment and during Normal Working Hours but may request the Customer to provide access at other times.

10.2 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.

10.3 The Customer warrants, represents and undertakes that it has adequate health and safety provisions in place at its Sites.

10.4 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 use and operation of the Equipment and Services at the Sites.

10.5 In the event that the Customer is not able to procure the necessary consent to provide the Services within 3 months from the Connection 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 to refund to the Company the cost of all such work (including, without limitation, staff costs and equipment costs) at its then current rates.

10.6 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.

10.7 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 re-decorating.

10.8 If the Customer is moving a Site, the Company must be informed as soon as is reasonably practicable so that suitable arrangements can be made to transfer the Customer's Services and

Equipment. Unless otherwise requested, the Company, in addition to moving the Service and Equipment, will also endeavour to retain the Customer's existing telephone number(s). If the Company can transfer the Customer's existing number to the new Site the existing Contract will continue under the same terms and conditions. If the Company cannot transfer the Customer's existing number to the new Site, installation of a new line will be required at the new Site, or if the Customer requires any additional new lines, this will attract new line connection charges and a new Contract.

10.9 If the new installation or moving Site involves the visit of an engineer to facilitate the new installation the Customer will be responsible for the costs incurred by the Company for the appointment together with an administration fee in respect of any additional works required to be undertaken by the Company to complete the transfer of the Services and Equipment.

10.10 If the Customer moves Sites and leaves the Equipment for the new owner/tenant the Customer is required to inform them that the Service will be discontinued if the Company is not contacted by the new owner/tenant within 72 hours for the purpose of entering into a new Contract.

11. WARRANTIES AND LIMITATION OF LIABILITY

11.1 Unless otherwise stated in these Conditions (or any relevant Service Specific Conditions) the Company makes no warranty in respect of the supply of Equipment and Services and all other warranties which by reason of statute or other direction, regulation or governmental authority may be implied into a Contract for the supply of Equipment and/or Services are hereby excluded to the fullest extent possible, save for those warranties which by reason of such statute or other direction, regulation or governmental authority cannot be excluded.

11.2 Under no circumstances shall the Company be liable in any event under the Contract in contract, tort (including negligence) or otherwise for any:

- (a) loss of revenue;
- (b) loss of business;
- (c) loss of contracts;
- (d) loss of anticipated savings;
- (e) loss of profits; or
- (f) any indirect, consequential or special losses; whether or not the Company knew or ought to have known that such losses or damages might be incurred.

11.5 Neither party shall be liable to the other party for any breach of any provision of the Contract caused by any reason outside the control or responsibility of that party including without limitation in respect of Network Services supplied by the Company, the failure of any Carrier to provide network capacity (or any element thereof) to the Company on which it was reliant for the purposes of the Contract (whether in breach of contract or otherwise), any Act Of God, terrorist attacks, inclement weather, 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.

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

- (a) for death or personal injury resulting from that party's negligence or its employee's negligence while acting in the course of their employment;
- (b) any proven fraudulent misrepresentation;
- (c) any indemnity given under the Contract; and/or
- (d) for anything for which the parties cannot at law limit or exclude their liability.

11.7 Nothing in this agreement is intended to give any right to any third party and any rights which would have arisen as a result of the Contracts (Rights of Third Parties) Act 1999 is hereby expressly excluded.

12. CUSTOMER'S INDEMNITY

12.1 Without prejudice to any other rights of the Company, the Customer shall indemnify and hold harmless the Company against all liabilities, claims, damages, losses and expenses whatsoever arising from any breach by the Customer of any warranties, undertakings and/or representations given under and/or any failure to comply with any responsibilities and liabilities of the Customer set out in these Conditions.

13 TERMINATION AND CONSEQUENCES

13.1 Subject to conditions 13.3 and 13.4 below and without prejudice to any specific termination rights set out elsewhere in these Conditions, the Customer shall not be entitled to change or cancel an order:

13.1.1 at all in respect of Equipment; or

13.1.2 except for termination in accordance with the conditions relating to the serving of notice to terminate the relevant Services (which for the avoidance of doubt shall be no earlier than the last day of the Minimum Term); unless otherwise agreed in writing with the Company.

13.2 In the event of any termination by the Customer in breach of the Contract, 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 cancelling the Contract before the end of a Minimum Term, the Cancellation Charge, where applicable the remainder of the Line Rental for the Minimum Term, a charge equal to the aggregate of the last 3 months Call Spend, refund of the cost of Installation or transfer charges where applicable, the remainder of the Annual Minimum Call Spend, the Support Charge, the Equipment Price and any other Charges that the Customer must pay under the terms of the Contract and any expenses incurred by the Company as a result of such changes or cancellation.

13.3 The Customer will be responsible for a Cancellation Charge in the event that an agreement is terminated. The Cancellation Charge will be added to the Customer's final bill.

13.4 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 any and/or all Contracts for Services on the giving to the other not less than 30 days prior written notice but not greater than 60 days prior written notice expiring at the end of the Minimum Term or at the end of any subsequent period as appropriate. For the avoidance of doubt, in the event that the Company terminates a Contract under this condition 13.4, 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.

13.5 A Contract may be terminated forthwith by either party by notice in writing if the other party materially breaches its obligations under these conditions (including without limitation non-payment of charges due) or any Service Specific Conditions and in the case of breaches which are capable of remedy such party fails to remedy such breach within 14 days of written notice by the other party of what the breach is and requesting that the breach is remedied.

13.6 In the event of termination, cancellation or upon expiry of this Contract, the Customer must immediately return all Equipment under rental to the Company

13.7 Notwithstanding anything to the contrary expressed or implied in these conditions, either party (without prejudice to its own rights) may terminate the Contract forthwith in the event that a liquidator (other than for the purpose of 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).

14. SOFTWARE PROVISION

14.1 Where the Company provides software to the Customer to enable the Customer to use the Services ("Software"), the Company grants the Customer a non-exclusive, non-transferable licence to use the Software solely for the term and purposes of the Contract. The Customer may need to sign agreements reasonably required by the owner of the copyright in the Software to protect the owner's interest in that Software for the Customer to be able to use the Software.

14.2 Except as permitted by applicable law or as expressly permitted under the Contract the Customer shall not de-compile or modify the Software, or copy the manuals or documentation.

15 CALL MONITORING

The Company may occasionally monitor and record calls made to or by the Company by or to the Customer, for training purposes, to improve the quality of its customer services and to assist with complaint handling.

16 CONFIDENTIALITY AND USE OF CUSTOMER'S INFORMATION

16.1 The Company and the Customer will keep in confidence any information, 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: (a) their employees or professional advisers who shall require the information in order for the Customer or the Company to fulfil its obligations under the Contract; or (b) in the case of the Customer, its users to the extent that they are required to use or access the Service.

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

- (a) lawfully in the public domain; or
- (b) lawfully in the possession of the Customer or the Company before disclosure has taken place; or
- (c) obtained from a third person who is entitled to disclose it; or (d) replicated independently by someone without access or knowledge of the information.

16.3 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 10 Business Days to make representations before releasing the requested information.

16.4 The Company will only use Personal Data (as defined within the Data Protection Act 1998) obtained from the Customer following provision of the Service for the following purposes:

- (a) administering the Customer's account;
- (b) notifying the Customer of changes to the Service;
- (c) enabling the Company to supply the Service to the Customer; and
- (d) for invoicing purposes.

16.5 The Company will use any Personal Data obtained from the Customer to any third parties for marketing purposes which includes but is not limited to offer by phone, fax, post, mobile phone, email and further products and/ or services the Company thinks may be of interest to the Customer.

16.6 Any Customer who 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 may do so by submitting a request in writing for a copy of the information to the Data Controller at Selective Networks Limited, Salts Mill, Piazza Offices, Saltaire, BD18 3LA, stating the Customer's full name, address, account number and phone number. The Company may charge a reasonable administration fee for providing such information.

17 CHANGES TO THE CONDITIONS, SERVICE SPECIFIC CONDITIONS AND CONTRACT

17.1 The Company may change the conditions and/or Service Specific Conditions at any time and will give written notice thereof to the Customer and/or publish any change in line with clause 17.2.

17.2 The Company may notify the Customer in writing and/or may publish any changes to the conditions and/or Service Specific Conditions in its major offices and online at <http://www.selectivenetworks.co.uk> as follows:

(a) at least 14 days before the change is to take effect for changes that are to be made to the significant detriment of the Customer; and

(b) at least one day before the change is to take effect for all other changes.

17.3 Subject to condition 17.4, if the Customer wishes to object to any proposed change in respect of condition 17.2, the Customer must notify the Company within 14 days of publication on the website or receipt of the notice of the proposed change, otherwise the Customer will be deemed to have accepted the proposed change.

17.4 The Customer may not object to any changes which are in the reasonable opinion of the Company necessary and expedient for the provision of the Service.

17.5 Save where condition 17.4 applies, upon the receipt of the objection under condition 17.2, the Company and the Customer shall negotiate in good faith to resolve any dispute. If this dispute cannot be resolved within 14 days of the receipt of the objection under condition 17.2, the parties may refer the dispute to senior managers of the Company and Customer or their directors. If this dispute is still not resolved within 14 days or any additional days as the parties may agree, the Company may at its absolute discretion terminate the Contract without prejudice to any rights which may have accrued before the termination, but otherwise without any liability to the Customer or withdraw the amendment without prejudice to the Contract which shall continue un-amended.

17.6 The Company may provide additional services to be included within the Services under such additional terms and conditions as may be notified from time to time.

18 FRAUD AND SECURITY

18.1 The Customer must ensure that user names and passwords used in connection with the Services are kept confidential and are only used by authorised users. The Customer must inform the Company immediately if the Customer knows or suspects that a user name or password has been disclosed to an unauthorised user or is being used in an unauthorised way. The Customer must not change or attempt to change a user name without the Company's written consent.

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

18.2.1 to suspend user names and password access to the Services if at any time the Company thinks that there has been or is likely to be a breach of security; and

18.2.2 to ask the Customer to change any or all of the passwords the Customer's uses in connection with the Services.

18.3 The Customer must inform the Company immediately of any subsequent changes to the information the Customer supplies to us.

18.4 The Customer accepts and acknowledges that the Services are not secure and the Company does not guarantee the prevention or detection of any unauthorised attempts to access the Services.

18.5 The Company has no control of a Customer's PABX/switch configuration, voice mail security or other feature services enabled, except where it is contractually responsible under the Maintenance Services.

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

18.7 Any assistance given by the Company in relation to fraud or its prevention 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 means that are beyond the Company's reasonable control.

19 GENERAL

19.1 Save and except as prohibited by paragraph 9.3 of the General Conditions in the case of Domestic & Small Businesses as defined by section 52(6) Communications Act 2003, upon the expiry of the Minimum Term, unless terminated by the services of 3 months written notice by the Customer to expire on the last day of the Minimum Term, the Contract shall renew automatically for further periods of 12 months, such further period shall be treated in all respect as the Minimum Term including the right of automatic renewal.

19.2 No forbearance or indulgence shown or granted by the Company to the Customer whether in respect of these 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.

19.3 These conditions and the Contract 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 these conditions to the exclusive jurisdiction of the English Courts.

19.4 Unless otherwise stated within any Service Specific Conditions, 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 who shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

19.5 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 person, and to the address or fax number, given in the Order Form (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax 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 fax, at the time of transmission, in the case of pre-paid first class post or recorded delivery, 48 hours from the date of posting 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 fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

19.6 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 set out in these Conditions and any relevant Service Specific Conditions in all respects.

19.7 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.

19.8 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.

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

19.10 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 of the Contract (or in the case of multiple Contracts the last Contract to be terminated), solicit or entice away from the Company or employ or attempt to employ any person who is, or has been, engaged as an employee or sub-contractor of the Company in the provision of the Services.

19.11 Without prejudice to condition 7.1, the Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and personal data will be processed by and on behalf of the Company in connection with the Services.

19.12 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.

19.13 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, that provision will apply with whatever modification is necessary to make it valid, enforceable and legal.

THE DIRECT DEBIT GUARANTEE

- This Guarantee is offered by all banks and building societies that accept instructions to pay Direct Debits
- If there are any changes to the amount, date or frequency of your Direct Debit Selective Networks Ltd will notify you 10 working days in advance of your account being debited or as otherwise agreed. If you request Selective Networks Ltd to collect a payment, confirmation of the amount and date will be given to you at the time of the request
- If an error is made in the payment of your Direct Debit by Selective Networks Ltd or your bank or building society you are entitled to a full and immediate refund of the amount paid from your bank