



**Outsource Online Services Ltd. (T/A Outsource Telecom)**

**Terms and Conditions for the Supply of Goods and Services within the  
Republic of Ireland**

## Contents

1.	DEFINITIONS AND INTERPRETATION .....	3
2	SUPPLY OF THE GOODS AND SERVICES .....	5
3	PAYMENT AND SET OFF .....	5
4	WARRANTIES .....	6
5	SERVICE MANAGEMENT .....	6
6	CUSTOMER OBLIGATIONS .....	7
7	EQUIPMENT .....	7
8	INTELLECTUAL PROPERTY .....	8
9	LIMITATION OF LIABILITY .....	8
10	CONFIDENTIALITY .....	9
11	PUBLICITY .....	10
12	FORCE MAJEURE .....	10
13	DISPUTE RESOLUTION .....	10
14	TERM AND TERMINATION .....	11
15	EXPORT CONTROL .....	11
16	NOTICES .....	12
17	ASSIGNMENT .....	12
18	VARIATION .....	12
19	DATA PROTECTION .....	12
20	INDUCEMENT .....	13
21	NO WAIVER .....	13
22	SEVERANCE .....	13
23	INDEPENDENT CONTRACTORS .....	14
24	TRANSFER REGULATIONS .....	14
25	RIGHTS OF THIRD PARTIES .....	14
26	GOVERNING LAW AND JURISDICTION .....	14
27	ENTIRE AGREEMENT .....	14

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 In this Agreement, unless the context otherwise requires:

**Affiliate:** any subsidiary, or holding company, or any other subsidiary of a holding company of a party from time to time, as the terms “subsidiary” and “holding company” are defined in Section 1159 of the Companies Act 2006, as amended from time to time.

**Agreement:** these terms and conditions along with the terms of any of the following which may be applicable: the Service Schedule(s), the Charges, the Connectivity Service agreement, an Order and or a SOW.

**Applicable Data Protection Law:** The data Protection Act 2018; the General Data Protection Regulation (Regulation (EU) 2016/679 (the “GDPR”)) the Regulation on Investigatory Powers Act 2000, the Telecommunications (Lawful business practice) (Interception of Communications) Regulations 2000 the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of Practice issued by the information commissioner.

**Business Day:** a day other than a Saturday, Sunday, or a public holiday in Northern Ireland.

**Charges:** the charges payable by the Customer for the Services in accordance with Clause 3 and as specified on the Order, a Price List or in a Service Schedule (if any).

**Confidential Information:** information disclosed (whether in writing, orally or by any other means and whether directly and specifically designed as ‘confidential’ or which ought reasonably be regarded as confidential) under or in connection with this Agreement by one party (the “Disclosing Party”) to the other party (the “Receiving Party”) or to which, under or in connection with the Agreement, the Receiving Party has gained access whether before or after the Effective Date including, without limitation, information relating to the Disclosing Party’s products, developments, services, operations, processes, plans or intentions, know-how, product information or trade secrets.

**Customer:** the party, business person or entity which enters into the Agreement with Outsource Telecom for the provision of a Service.

**Customer Equipment:** equipment (including software embedded in or run on such equipment), other than Outsource Telecom Equipment, used by the Customer in connection with the Service.

**Deliverables:** any Goods and/or Services and/or Third-Party Software (as the context requires) to be delivered to the Customer and expressly stated in an agreed Order or Statement of Work accompanying this Agreement:

**Dispute:** any disagreement, conflict or claims arising out of or in connection with this Agreement or its validity. **Effective Date:** the date the first Order comes into force or if there is no Order the Operational Service Date.

**Outsource Online Services Ltd** is registered in Northern Ireland with company number NI671940 whose registered office is at 3 Plaskett’s Close, Kilbegs Business Park, Antrim, County Antrim, Northern Ireland, BT41 4LY.

**Outsource Telecom** equipment (including any software embedded in or run on such equipment) other than Customer Equipment or Goods, owned or licensed by Outsource Online Services Ltd and placed on a Site by Outsource Online Services Ltd for provision of the Service.

**Outsource Telecom Personnel:** means the employees, agents and/or contractors of Outsource Telecom

**Goods:** third party manufactured equipment and accessories supplied by or on behalf of Outsource Telecom

including the hardware upon which the Third-Party Software, if any, is stored.

**Intellectual Property Rights:** all patents, copyrights, design rights, trade marks, service marks, trade secrets, know-how, database rights and other rights in the nature of intellectual property rights (whether registered or not), and all applications for the same which may now, or in the future, subsist anywhere in the world.

**Minimum Period of Service:** the minimum duration of a Service as set out in a Service Schedule or an Order, commencing on the Operational Service Date.

**Operational Service Date:** the date(s) on which a Service is first made available by Outsource Telecom Or their suppliers to the Customer in accordance with Clause 2.4.

**Order(s):** where applicable the Customer's order for the Goods and/or Services in accordance with Outsource Telecom's order form.

**Service Schedule:** appended to an the Order, or to these master terms and conditions or available online at outsource.com which describes in detail the Service and/or Goods to be provided by Outsource Telecom Or any subsequent suppliers, any applicable service levels and specifications and Statements of Work (if applicable).

**Services:** the services to be provided by Outsource Telecom as described in detail in a Service Schedule, which may include the delivery of Goods.

**Site:** a location at which Outsource Telecom agrees to provide the Services to the Customer.

**Statement of Work or SOW:** a description of the Goods and Services which may be appended to a Service Schedule or an Order for non-standard Goods and/or Services.

**Third Party Software:** third party software supplied by or on behalf of Outsource Telecom for use with the Goods.

**Transaction Taxes:** any applicable taxes including but not limited to value added tax, custom and excise and all other taxes and surcharges.

**Transfer Regulations:** Transfer of Undertakings (Protection of Employment) Regulations 2006 and the Service Provision Change (Protection of Employment) Regulations (Northern Ireland) 2006.

**Connectivity Service Agreement:** where applicable a letter or email from Outsource Telecom to the Customer specifying the Service the Customer will receive from Outsource Telecom

1.2 In this Agreement, headings and bold type are for convenience only and do not affect the interpretation of this Agreement and, unless the context otherwise requires:

1.2.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

1.2.2 a reference to a party includes its successors or permitted assigns.

1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

1.2.4 any phrase introduced by the terms including, include, in particular or any similar expression, shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.5 a reference to writing or written includes faxes but not e-mails.

### 1.3 Order of Precedence

In the case of conflict or ambiguity between any provision contained in the body of these master terms and conditions and any provision in any Service Schedule or Order or other attachment in this Agreement the order of precedence shall be as follows:

- (i) Master Terms and Conditions
- (ii) Service Schedule
- (iii) Order

## **2 SUPPLY OF THE GOODS AND SERVICES**

- 2.2 In consideration for the payment of the Charges by the Customer, Outsource Telecom agrees to provide the Customer with the Services and / or Goods and/or in accordance with the Agreement.
- 2.3 Each Service shall have a Minimum Period of Service commencing on the Operational Service Date.
- 2.4 Outsource Telecom, if requested by the Customer, may provide a provisional Operational Service Date, which unless otherwise agreed by Outsource Telecom, is an estimate only and time shall not be of the essence.
- 2.5 Each Service shall come into force on:
- the Operational Service Date.
  - Outsource Telecom will use reasonable efforts to deliver the Goods within the time specified by Outsource Telecom, if any, in the Order.
- 2.6 Outsource Telecom reserves the right at all times to suspend a Service in an event of an emergency or, subject to providing the Customer reasonable advance notice, to:
- 2.6.1 change the technical specification of a Service, or any part thereof, being provided by Outsource Telecom to the Customer, provided that any change to the technical specification will not materially decrease or impair the scope or the performance of the Service; and
  - 2.6.2 change a Service as may be necessary to comply with applicable laws or health and safety requirements.
- 2.7 This Agreement shall be binding on both parties in respect of the supply by Outsource Telecom of all Goods and Services to the Customer.

## **3 PAYMENT AND SET OFF**

- 3.2 The Charges for individual Goods or Services shall be those that are set out in the relevant Order, Price List or Services Schedule.
- 3.3 The Customer shall pay the Charges within fourteen (14) days of the date of issue of an invoice from Outsource Telecom to the Customer (the "Due Date"), without any set-off, counterclaim or deduction, except in accordance with Clause 3.4.
- 3.4 Outsource Telecom may, at its discretion, add interest charges to any past due amounts from the expiry of the Due Date in the manner and at the rates set out in the Late Payments of Commercial Debts (Interest) Act 1998, PROVIDED THAT, Outsource Telecom will not add such interest charges until the conclusion of an additional five (5) Business Days from notification in writing by Outsource Telecom to the Customer that invoice(s) are past due.
- 3.5 The Customer will promptly notify Outsource Telecom in writing of any disputed invoice or amount and provide Outsource Telecom with all information relevant to the dispute, PROVIDED THAT any disputed invoice or amount must be brought to Outsource Telecom's attention without delay and in any event not later than the Due Date ("Payment Dispute"). Any Payment Dispute will be subject to the dispute resolution provisions of Clause 12. On resolution of the dispute the agreed amount, if any, shall be paid immediately and in any event not later than 5 Business Days after the resolution of the dispute.
- 3.6 In addition to the provisions set out in Clause 3.3, in the event that a payment due to Outsource Telecom from the Customer following the issue of an invoice pursuant to Clause 3.2 has not been received by Outsource Telecom by the Due Date, Outsource Telecom reserves the right to not to deliver the Goods or to suspend the provision of the Service until payment is made by the Customer in full.
- 3.7 Without prejudice to any other right or remedy it may have, Outsource Telecom may set off any payment owed to it by the Customer in accordance with this Agreement against any amount owed by Outsource Telecom to the Customer, whether in connection with this Agreement or any other agreement in place between Outsource Telecom and the Customer.
- 3.8 Outsource Telecom may, at its sole discretion, where it has any reasonable concern as to the ability of the Customer to meet its payment obligations pursuant to Clause 3.2, at any time, require full, or partial, payment of the Charges prior to supply of the Good or Service or to require the provision of security for payment by

the Customer in a form acceptable to Outsource Telecom

- 3.9 Any extension of credit allowed by Outsource Telecom to the Customer may be changed or withdrawn at any time at the discretion of Outsource Telecom, upon Outsource Telecom giving reasonable prior written notice to the Customer.
- 3.10 Outsource Telecom reserves the right to review and amend the Charges annually (Typically in line with CPI + 2.5%). Unless otherwise stated in a Service Schedule at least two (2) months prior written notice shall be given to the Customer in respect of any increase in the Charges arising from the annual review.
- 3.11 If the cost to Outsource Telecom of providing a Service change to a material extent, Outsource Telecom shall have the right to amend the Charges at any time by giving written notice to the Customer, such notice setting out details of the:
- 3.11.1 reasons for the change in the cost of providing the Service; and
  - 3.11.2 change to the Charges and the date the change will take effect.
- 3.12 The Charges are exclusive of the Transaction Taxes. The Customer will pay the Transaction Taxes for the Service supplied under this Agreement except to the extent a valid exemption certificate is provided by the Customer to Outsource Telecom prior to the delivery of the Goods or Services.
- 3.13 A failure by the Customer to pay any validly due sums owed under the Agreement by the Due Date shall be regarded as a material breach of the Agreement for the purposes of Clause 13.2.1.

#### **4 WARRANTIES**

- 4.2 Each of Outsource Telecom and the Customer warrants to the other its full capacity and authority to enter into and to perform the Agreement in accordance with its terms.
- 4.3 Outsource Telecom warrants to the Customer that it:
- 4.3.1 shall perform the Service with reasonable skill, care, and diligence through appropriately experienced, qualified and trained Outsource Telecom Personnel.
  - 4.3.2 has all rights, authorisations and licenses required to provide the Service to the Customer; and
  - 4.3.3 shall provide the Service in accordance with the terms of the Service Schedule.
- 4.4 Except as expressly set forth in this Agreement, all express or implied warranties, whether arising by statute, custom and practice or otherwise, including terms and conditions as to fitness for any particular purpose, are hereby excluded.

#### **5 SERVICE MANAGEMENT**

##### **5.1 Incident Reporting**

- 5.1.1 Outsource Telecom shall supply monitoring and management of Internet Leased Line Services 24 hours a day 7 days a week together with pre-emptive Incident reporting to the Client whenever reasonably possible. In the event that any Incident is experienced by the Client that it has not been identified by Outsource Telecom, the Client must submit an Incident Report to our support teams by telephone or via email.
- 5.1.2 For Point to Point Leased Line and Unmanaged Leased Line Services clause 5.1.1 does not apply and the Client will be responsible for the submission of Incident Reports to Outsource Telecom.
- 5.1.3 All Incident Reports submitted by the Client must provide a complete description of the Incident and any information reasonably requested by Outsource Telecom.
- 5.1.4 The support team will require the Client to conduct first line diagnostics with any of its Users where appropriate.
- 5.1.5 If the Client wants to report any incident outside of Normal Business Hours, the Client must email the report to Outsource Telecom via [support@outsourcetele.com](mailto:support@outsourcetele.com) and detailing the nature of the Incident and an engineer will deal with the report when the office next opens.

## 5.2 Incident Response Timescales

- 5.2.1 Outsource Telecom along with our partners shall use best endeavours to assign an Incident to an appropriate engineer within 30 minutes of the generation or receipt of a fault for no less than 95% of Incidents properly submitted to Outsource Telecom by the Client in accordance with Clause 5.1.
- 5.2.2 Outsource Telecom shall use best endeavours to make an update on an Incident available to the Client via email within the response times specified in Clause 5.4.1.

## 5.3 Incident Resolution Targets

- 5.3.1 Outsource Telecom shall use reasonable endeavours to clear Incidents within the time scales specified within the Incident classification matrix set out in Clause 5.4.1

## 5.4 Incident Classification Matrix

- 5.4.1 The Incident classification matrix set out below outlines the description, resolution, and scheduled updates frequencies and any possible rebates for the associated Incident priorities.

Includes	Premium Assist
Fault Reporting	24*365
Feedback during office hours	Every 4 hrs
Initial response to fault	within 3 hrs
Availability Level	99.80%
Cust. Availability rebates	8%
Cust. provisioning rebates	3%

## 6 CUSTOMER OBLIGATIONS

### 6.1 The Customer shall:

- 6.1.1 co-operate with Outsource Telecom in all matters relating to the provision of the Goods and Services.
- 6.1.2 provide Outsource Telecom with any information it reasonably requires in connection with the provision of the Services.
- 6.1.3 obtain all necessary permissions and consents which may be required before the commencement of the Services; and
- 6.1.4 comply with such other requirements as Outsource Telecom may reasonably require in order for Outsource Telecom to perform the Services or deliver the Goods.

### 6.2 If Outsource Telecom's performance of any of its obligations under the Agreement is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (a "Customer Default"):

- 6.2.1 Outsource Telecom shall without limiting its other rights or remedies have the right to suspend performance of the Service until the Customer remedies the Customer Default.
- 6.2.2 Outsource Telecom shall not be liable for any costs or losses sustained or incurred by the Customer arising from a Customer Default; and
- 6.2.3 the Customer shall reimburse Outsource Telecom on written demand for any vouched costs or losses sustained or incurred by Outsource Telecom arising directly or indirectly from a Customer Default.

## 7 EQUIPMENT

- 7.1 In circumstances where Outsource Telecom or its partners requires access to a Customer Site to carry out works for the purposes of the installation, review, support, repair or removal of Outsource Telecom Equipment, (such access shall be in accordance with reasonable Customer policies on health and safety and security expressly notified in writing to Outsource Telecom), the Customer will at its own cost, and before the commencement of any installation or other works by Outsource Telecom:

- 7.1.1 obtain all necessary rights and consents for Outsource Telecom, including, but not limited to access rights.
- 7.1.2 provide a suitable and safe working environment, including all necessary trunking, conduits, and cable trays, in accordance with the relevant installation standards.
- 7.1.3 provide any electricity and telecommunication connection points reasonably required by Outsource Telecom; and
- 7.1.4 keep, maintain, and insure the Outsource Telecom & our Partners Equipment in good condition and in accordance with the Outsource Telecom's instructions as notified in writing from time to time and shall not dispose of or use the Outsource Telecom Equipment other than in accordance with Outsource Telecom's written instructions or authorisation.

If the Customer fails to provide any of the facilities listed in this Clause, Outsource Telecom reserves the right to charge the Customer with the cost of any abortive work or time spent trying to access the Site.

- 7.2 The Customer shall ensure that any Customer Equipment connected to the Outsource Telecom Or their partners equipment is technically compatible and approved for that purpose under any applicable law or regulation and is connected in accordance with any instructions or safety and security procedures applicable to the use of that Outsource Telecom Equipment.
- 7.3 The Customer shall be liable to Outsource Telecom for any loss of or damage to the Outsource Telecom Equipment, except where the loss or damage is due to fair wear and tear or is caused by Outsource Telecom or any person acting on Outsource Telecom's behalf.
- 7.4 In circumstances where the Customer requires access to an Outsource Telecom Site the Customer shall comply with Outsource Telecom's health, safety and security requirements as notified to the Customer at the Outsource Telecom Site.

## **8 INTELLECTUAL PROPERTY**

- 8.1 All Intellectual Property Rights in the Outsource Telecom Equipment, and in or arising out of or in connection with the Service shall be owned by Outsource Telecom or its third-party licensors.
- 8.2 The Customer acknowledges that, in respect of any third-party Intellectual Property Rights in the Outsource Telecom Equipment, the Customer's use of any such Intellectual Property Rights is limited to such terms as determined by Outsource Telecom to sub-license such rights to the Customer and such rights to use end on termination of this Agreement.
- 8.3 If the Outsource Telecom Equipment or the Goods and Service become, or Outsource Telecom believes are likely to become, the subject of an allegation or claim for infringement of any third party Intellectual Property Rights, Outsource Telecom, at its option and expense, may secure for the Customer a right of continued use of the Service or modify or replace the Outsource Telecom Equipment, so that it is no longer infringing. If neither of those remedies is available to Outsource Telecom on reasonable terms, Outsource Telecom may so notify the Customer and terminate the infringing Service in accordance with the termination provisions of this Agreement without penalty to either party. Outsource Telecom will refund to the Customer any prepaid Charges for the Outsource Telecom Equipment and or the infringing Service.

## **9 LIMITATION OF LIABILITY**

- 9.1 Nothing in this Agreement limits or excludes the liability of either party:
  - 9.1.1 for death or personal injury caused by its negligence.
  - 9.1.2 for any damage or liability incurred by either party as a result of fraud or fraudulent misrepresentation by the other party; and
  - 9.1.3 for any other liability which cannot be excluded or limited by applicable laws.
- 9.2 Each party's total liability to the other under or in connection with the supply of the Goods and Services and for any claims whether in contract, tort (including negligence) or otherwise, for any loss or damage arising out of or in connection with this Agreement or otherwise shall be limited to the aggregate of the Charges paid in the preceding twelve (12) months prior to the date of the incident giving rise to the claim.



9.3 Neither party will be liable to the other party for:

- 9.3.1 loss of profits.
- 9.3.2 loss of business.
- 9.3.3 loss of revenue.
- 9.3.4 damage to goodwill or any similar losses.
- 9.3.5 anticipated savings.
- 9.3.6 loss of use.
- 9.3.7 loss or corruption of data or information; and
- 9.3.8 any punitive, indirect, consequential loss or damage.

9.4 Outsource Telecom shall not be liable to the Customer for any loss or damage of whatsoever nature for late or non-delivery of the Goods or Services to the extent that such late or non-delivery of the Goods and/or Services is outside the reasonable control of, and is not attributable to the acts or omissions of Outsource Telecom

9.5 The Customer agrees that Outsource Telecom does not have any liability, subject always to applicable law, in respect of any matter arising from the use of the Goods or Services contrary to the provisions of this Agreement or an Order and/or other written instructions provided by Outsource Telecom

9.6 The Customer agrees to indemnify and hold harmless Outsource Telecom, its officers, Affiliates, employees, agents and their sub-contractors against any liability arising from any or all claims by any third party arising out of the use of the Goods or Services.

9.7 The Customer and Outsource Telecom shall obtain and maintain policies of insurance with a reputable insurer in respect of its liabilities under this Agreement. The Customer shall furnish Outsource Telecom with satisfactory evidence of the insurance within seven (7) days of receipt of a written request to that effect from Outsource Telecom

## 10 CONFIDENTIALITY

10.1 The Receiving Party:

- 10.1.1 will not use Confidential Information for a purpose other than the performance of its obligations under this Agreement.
- 10.1.2 will not disclose Confidential Information to a person except with the prior written consent of the Disclosing Party; and
- 10.1.3 shall take all reasonable measures to prevent any unauthorised disclosure, access, use or misappropriation of Confidential Information, which for the avoidance of doubt shall not be less than the measures it takes in relation to its own similar Confidential Information, such measures to be no lesser than a reasonable standard of care.

10.2 The Receiving Party may disclose Confidential Information to any of its (or its Affiliates) directors, other officers and

employees, or to its professional advisors, auditors, and bankers (each a "Recipient") to the extent that disclosure is reasonably necessary. The Receiving Party shall ensure that a Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under the Agreement as if the Recipient was a party to this Agreement. The Receiving Party will be liable to the Disclosing Party for any non-compliance by a Recipient. If the Receiving Party becomes aware of any threatened or actual unauthorised access to, use or disclosure of, or any inability to account for, the Disclosing Party's Confidential Information, the Receiving Party will promptly notify the Disclosing Party thereof and will assist the Disclosing Party with its efforts to terminate such access, to curtail such threatened or actual unauthorised use or disclosure, or to recover such information or materials.

10.3 Each party may disclose Confidential Information if and to the extent that:

- 10.3.1 it is required by the law of any relevant jurisdiction or pursuant to an order of a court of competent jurisdiction or that of a competent regulatory authority, provided always that the relevant party is promptly notified of such requirement and afforded a reasonable opportunity

to seek relief therefrom, where available.

- 10.3.2 the information has come into the public domain through no fault of that party.
  - 10.3.3 the information was in the possession of the Receiving Party before such disclosure by the Disclosing Party, or was developed independently by the Receiving Party, without reference to the Confidential Information.
  - 10.3.4 the information was obtained by the Receiving Party from a third party who was free to divulge the same.
  - 10.3.5 the Disclosing Party has given prior written approval to the Receiving Party in respect of the disclosure, such approval not to be unreasonably withheld or delayed; or
  - 10.3.6 this is required to enable that party to enforce its rights under this Agreement.
- 10.4 A breach of this Clause 9 would cause irreparable harm to the Disclosing Party, for which monetary damages would be inadequate and injunctive relief may be available for a breach of this Clause 9.
- 10.5 The obligations of both parties as to disclosure and confidentiality under this Clause 9 shall continue in force notwithstanding the termination or expiration of the Agreement.

## **11 PUBLICITY**

- 11.1 Outsource Telecom may reference the Customer as a customer of Outsource Telecom for internal purposes and presentations of its services to third parties but shall not refer to or identify the Customer in advertising, publicity releases, or promotional or marketing publications without, in each case, securing the prior written consent of the Customer.
- 11.2 The Customer agrees to co-operate with the reasonable requirements of Outsource Telecom in relation to customer satisfaction surveys organised by or on behalf of Outsource Telecom or its suppliers.

## **12 FORCE MAJEURE**

- 12.1 Neither party shall be liable for performance of its obligations caused by or resulting from a force majeure event, which shall include, but not be limited to, events which are unpredictable, unforeseeable, irresistible and beyond the parties' control, such as any extreme severe weather, flood, landslide, earthquake, storm, lightning, fire, subsidence, epidemic, pandemic, acts of terrorism, outbreak of military hostilities (whether or not war is declared), riot, explosions, strikes or other labour unrest (but only to the extent that the impact of such strikes or other labour unrest are significant, regional or national), civil disturbance, sabotage, expropriation by governmental authorities or other act or any event that is outside the reasonable control of the concerned party (a "Force Majeure Event").
- 12.2 Outsource Telecom shall not be liable to the Customer for any loss, damage, expenses, injury or death whatsoever arising or resulting from a Force Majeure Event.
- 12.3 In the event of:
- 12.3.1 a refusal or delay by a third party to supply a telecommunications service to Outsource Telecom and where there is no alternative service available at reasonable cost; or
  - 12.3.2 Outsource Telecom being prevented by restrictions of a legal or regulatory nature from supplying the Good and Services, Outsource Telecom will have no liability to the Customer for failure to supply the Goods and Services.

## **13 DISPUTE RESOLUTION**

- 13.1 Unless otherwise stated in a Service Schedule, if at any time any dispute or difference in relation to the Agreement or the Services delivered thereunder arises between Outsource Telecom and the Customer that is not resolved amicably between the parties within 10 Business Days of the dispute or difference arising, the parties shall first escalate using appropriate internal procedures within both parties' organisations. If the dispute is not resolved by such meetings within a further 30 Business Days of the matter being escalated, the parties may, on agreement, refer the dispute to non-binding mediation in accordance with the International Centre for Dispute Resolution ("CEDR") procedures then in force before resorting to litigation. The mediation

process will be commenced by service by one party on the other of a written notice that the issue is to be referred to mediation (the "Mediation Notice"). The parties shall agree on a choice of mediator with at least ten years' experience in the telecoms industry and who has knowledge and experience sufficient to comprehend the issues raised. In the event that the parties are unable to agree on a choice of mediator within 10 Business Days of the date of service of the Mediation Notice, the parties shall accept a mediator nominated by CEDR. The costs of the mediation shall be shared equally between the parties.

- 13.2 If any dispute or difference is not settled by reference to mediation within 45 days of the commencement of the mediation then either party may, on agreement refer the matter to arbitration in accordance with the Arbitration Rules of the Chartered Institute of Arbitrators – Irish Branch for final and binding settlement. The place of arbitration shall be Belfast, Northern Ireland. The language of arbitration shall be English.
- 13.3 Nothing contained in this Clause 12 shall restrict either party's freedom where such relief is required to preserve any legal right or remedy, to sue for breach of contract, to protect any Intellectual Property Rights or rights in Confidential Information or to otherwise prevent irreparable harm and each party shall be free to issue court proceedings at any time.

## **14 TERM AND TERMINATION**

- 14.1 The Agreement shall commence on the Effective Date and shall remain in force until all Minimum Periods of Service have expired or been terminated in accordance with the provisions of this Agreement. After the expiry of all Minimum Periods of Service all Services provided hereunder and this Agreement shall thereafter automatically continue, unless and until either party terminates the Agreement by serving a thirty (30) day notice in writing.
- 14.2 Either party may immediately by notice terminate this Agreement or any Service or any Order if one of the following events occurs:
- 14.2.1 the other party commits a material breach of the Agreement or an Order and has failed to cure such breach within thirty (30) days after the terminating party has given a notice of default to the party in breach; or
  - 14.2.2 the party is deemed bankrupt or enters into liquidation, whether compulsory or voluntary, other than for the purposes of amalgamation or reconstruction, is the subject of a winding up petition or has a receiver or manager appointed over all or any of its assets; or
  - 14.2.3 a Force Majeure Event continues for more than thirty (30) days.
- 14.3 Upon termination of the Agreement or an Order:
- 14.3.1 the rights of the parties accrued up to the date of such expiry or termination shall remain unaffected.
  - 14.3.2 the Customer shall co-operate fully with Outsource Telecom to recover the Outsource Telecom Equipment.
  - 14.3.3 if Outsource Telecom terminates the Agreement for a material breach by the Customer, or if the Customer terminates the Agreement prior to the expiry of the Minimum Period of Service the Customer shall be liable to pay to Outsource Telecom the balance of the Charges.
  - 14.3.4 Outsource Telecom may exercise a lien over any of the Customer Equipment or Goods located on an Outsource Telecom Site at the date of such termination for any amount due pursuant to the terms of the Agreement or otherwise from the Customer to Outsource Telecom; and the Customer shall immediately upon such termination become liable to pay to Outsource Telecom the amount of any loss or damage suffered by Outsource Telecom as a result of the termination; and
  - 14.3.5 Outsource Telecom shall have an automatic right to the Charges for a Service up to and including the date of termination.

## **15 EXPORT CONTROL**

The parties acknowledge that products, software, and technical information (including, but not limited to, provision of the Service, technical assistance and training) provided under the Agreement may in certain circumstances, be subject to export laws and regulations of Ireland, the USA and other countries, and any use or transfer of the products, software, and technical information must be in compliance with all

applicable regulations. The parties will not use, distribute, transfer, or transmit the products, software, or technical information (even if incorporated into other products) except in compliance with all applicable export regulations. If requested by either party, the other party also agrees to sign written assurances and other export-related documents as may reasonably be required to comply with all applicable export regulations.

## **16 NOTICES**

All notices given under this Agreement shall be in writing in the English language and may be sent by registered post to the registered office address of the party receiving the notice. Any notices sent to Outsource Telecom shall be addressed to the Managing Director of Outsource Telecom and copied to the Company Secretary at Outsource Telecom's registered office address.

## **17 ASSIGNMENT**

- 17.1 Except as expressly set out in this Agreement, neither party shall be entitled to give, sell, transfer, assign, let or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other party, provided however that Outsource Telecom may without the consent of the Customer transfer, assign or otherwise dispose of all of its rights and obligations under this Agreement to (a) any Affiliate of Outsource Telecom or (b) any other third party to which all of the business and assets of Outsource Telecom are transferred in the event, inter alia, of any acquisition of Outsource Telecom by any third party or the restructuring of the Outsource group. Outsource Telecom may assign all or part of this Agreement to any party or body for the purposes of financing without the consent of the Customer.
- 17.2 This Agreement shall be binding on, and inure to the benefit of, the parties and their successors and permitted assigns.
- 17.3 Outsource Telecom may subcontract the performance of any of its obligations under the Agreement, but without relieving Outsource Telecom from any of its obligations to the Customer. The Customer agrees and understands that it may need to interact directly with a subcontractor for the delivery of the Service.

## **18 VARIATION**

The Agreement shall not be amended, modified or supplemented except as set out in a Service Schedule or where applicable an Order or Statement of Work.

## **19 DATA PROTECTION**

- 19.1 Within this Clause 18 "Data Controller", "Data Processor", "Data Subject", "Personal Data" and "Processing" shall have the same meanings as in the Applicable Data Protection Legislation and "Processed" and "Process" shall be construed in accordance with the definition of "Processing".
- 19.2 In order for Outsource Telecom to meet Orders and provide the Goods and/or Services under same, it is necessary for Outsource Telecom to Process Personal Data on behalf of the Data Controller.
- 19.3 The Parties have included these clauses to assist the Data Controller in meeting its obligations under the Applicable Data Protection Law while also binding Outsource Telecom to its obligations as Data Processor under Applicable Data Protection Law.
- 19.4 If in the delivery of the Goods and/or Services sought under Orders, the Data Controller requires Outsource Telecom to Process Personal Data in the capacity of a Data Controller or joint Data Controller (within the meaning of Article 26 GDPR), the Data Controller shall notify Outsource Telecom pursuant to clause 15 of the Agreement and the parties shall use all reasonable endeavors to determine the respective responsibilities of the parties under Applicable Data Protection Law.
- 19.5 In respect of the Processing of Personal Data by Outsource Telecom or Outsource Telecom Personnel under or in connection with the Agreement, Outsource Telecom shall as Data Processor, and shall procure that Outsource Telecom Personnel shall:
- 19.5.1 only Process the Personal Data to the extent required to provide the Goods and/or Services in accordance with the terms of the Agreement or otherwise in accordance with documented instructions

of the Data Controller from time to time, and the Data Controller agrees that such instructions shall at all times be consistent with the normal provision of Goods and/or Services.

- 19.5.2 not otherwise modify, amend, or alter the contents of the Personal Data or disclose or permit the disclosure of any of the Personal Data to any third party unless specifically authorised to do so in writing by the Data Controller.
  - 19.5.3 comply with Outsource Telecom's obligations under Article 32 GDPR to implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk of the Processing undertaken by Outsource Telecom under or in connection with the Agreement.
  - 19.5.4 comply with Applicable Data Protection Legislation.
  - 19.5.5 make available to the Data Controller, upon reasonable notice, all information reasonably required by the Data Controller to demonstrate compliance with Article 28 GDPR as may be requested by the Data Controller from time to time.
  - 19.5.6 not process the Personal Data anywhere outside of the European Economic Area without the prior written consent of the Data Controller (and subject then, in the event of any transfer outside the European Economic Area, to the execution of any document or agreement which, in the reasonable opinion of the Data Controller, is required in order to lawfully effect any such transfer of Personal Data); and
  - 19.5.7 cease Processing the Personal Data upon receipt of notice in accordance with clause 13.1 or 13.2 of the Agreement from the Data Controller of the termination or expiry of the Agreement or, if sooner, the Services to which it relates and within a reasonable period thereafter, at the Data Controller's option and explicit written direction, either return, or delete from its systems, the Personal Data and any copies of it or of the information it contains. The provisions of this Clause 18.5.7 shall not apply to the extent the Data Processor is obliged by applicable law to keep copies of the Personal Data.
- 19.6 To the extent that that the Data Controller requires Outsource Telecom's assistance, and in response to a written request from the Data Controller, Outsource Telecom shall cooperate with and reasonably assist the Data Controller:
- 19.6.1 to put appropriate technical and organisational measures in place to enable the Data Controller to comply with any exercise of rights by a Data Subject under the Applicable Data Protection Legislation (including, without limitation, in relation to the retrieval and/or deletion of a Data Subject's Personal Data); and
  - 19.6.2 in discharging the Data Controller's obligations pursuant to Articles 32 and 36 GDPR.
- Any obligations arising under this clause 17.6 shall be at no additional cost to Outsource Telecom and any such costs arising in connection with the performance of Outsource Telecom's obligations under this clause 18.6 shall be promptly reimbursed to Outsource Telecom by the Data Controller upon reasonable request and without delay.
- 19.7 Outsource Telecom may also authorize a third party (a "Sub-processor") to process the Personal Data being processed for or on behalf of the Data Controller where required for the provision of the Goods and/or Services, save that suitable provisions for complying with Applicable Data Protection Law are set out in any contract with a Sub-processor.

## **20 INDUCEMENT**

The parties acknowledge and agree that they have not been induced to enter into this Agreement by any representation, warranty or other assurance not expressly incorporated into this Agreement.

## **21 NO WAIVER**

Except as otherwise specifically provided in this Agreement, no failure to exercise, or delay in exercising, any right, power or privilege set forth in this Agreement will operate as a waiver of any right, power or privilege.

## **22 SEVERANCE**

If any provision of this Agreement is held to be invalid or unenforceable, it will be severed from the Agreement, the remaining provisions will remain in full force and effect and the parties will promptly

negotiate a replacement.

## **23 INDEPENDENT CONTRACTORS**

The parties acknowledge that Outsource Telecom is acting as an independent contractor and that nothing in this Agreement will be construed to create an agency or employment relationship between the Customer and Outsource Telecom

## **24 TRANSFER REGULATIONS**

24.1 The parties agree that it is not their intention that the Transfer Regulations should apply on their entering into this Agreement.

24.1.1 Notwithstanding the foregoing the parties acknowledge and agree that if the Transfer Regulations apply to the commencement of this Agreement and any Customer employees or employees of Customer suppliers transfer employment to Outsource Telecom then the following provisions shall apply:

24.1.2 The Customer shall be liable for and shall indemnify Outsource Telecom and keep Outsource Telecom indemnified against all damages, losses, liabilities, costs, expenses (including legal and other professional charges and expenses) whether arising under statute, contract or at common law or in connection with judgments, proceedings, internal costs, employment costs or demands arising out of any claim by any person employed by the Customer or the Customer's supplier relating to or arising out of his/her employment or non-employment or engagement or non-engagement by Outsource Telecom including, without limitation, any claim:

24.1.2.1 for breach of contract, wrongful dismissal, unfair dismissal, loss of office, redundancy, loss of earnings or otherwise for which Outsource Telecom is or may be liable by reason of the operation of the Transfer Regulations following the commencement of this Agreement; or

24.1.2.2 of whatsoever nature by any third party against Outsource Telecom for which Outsource Telecom is or may be liable by virtue of the Transfer Regulations.

24.1.2.3 for statutory and non-statutory redundancy payments arising out of or in connection with a dismissal by Outsource Telecom of any person whose employment transfers (or is alleged to transfer) to Outsource Telecom as a consequence of the Transfer Regulations applying by operation of law or being asserted to so apply or otherwise upon the commencement of this Agreement howsoever or whenever arising.

The Customer shall fully indemnify Outsource Telecom and hold Outsource Telecom harmless keep Outsource Telecom indemnified against each and every claim and/or damages, losses, liabilities, costs, expenses (including legal and other professional charges and expenses) whether arising under statute, contract or at common law or in connection with judgements, proceedings, internal costs or demands.

## **25 RIGHTS OF THIRD PARTIES**

The Agreement is intended solely for the benefit of the parties to it. A person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

## **26 GOVERNING LAW AND JURISDICTION**

The Agreement shall be governed by and construed in accordance with the laws of Northern Ireland and subject to clause 12 (Dispute Resolution) the Courts of Northern Ireland will have non-exclusive jurisdiction.

## **27 ENTIRE AGREEMENT**

The Agreement supersedes all prior oral or written agreements or understanding between the parties and constitutes the entire agreement with respect to the subject matter.