

## DATA CONNECTIVITY SERVICE AGREEMENT

The Company is a supplier of data connectivity services and the Client wishes that the Company provide those services to it.

This Data Connectivity Service Agreement ("**Agreement**") is a Service Agreement as defined in the MCC (as defined below) and sets out certain service-specific terms applicable to the Company's supply, and the Client's acceptance, of those data connectivity Services and forms part of the Contract between the Company and the Client for those Services.

This Agreement contains generic information pertinent to all the Company's data connectivity Service offerings. Service availability and performance targets in respect of the services vary dependent on the solution deployed, including the particular access circuit technology chosen (whether leased line, local Ethernet, national Ethernet, DSL access, ISDN backup etc). Because of the diversity of the range of data connectivity services offered, this Agreement is supported by the Schedule which contains commitments in respect of specific Service offerings. Together, this Agreement and the Schedule sets out the overall Service delivery commitment to the Client in respect of the Company's data connectivity Services.

The Contract between the Company and the Client for the Services also incorporates the terms and conditions of the MCC (as defined below) and the Order Form and the CRF (where applicable).

### 1. DEFINITIONS

Words beginning with a capital letter in this Agreement (including the Schedule) bear the meaning given in the MCC (as defined below) unless the context requires otherwise. The following definitions in this clause also apply in this Agreement (including the Schedule).

**"Access Circuit"** or **"Access Connection"** means a circuit from a Site to a point of presence on the relevant Carrier's electronic communications system, whether DSL (digital subscriber line) (symmetric or asymmetric), Ethernet, leased line, 3G or 4G, or broadband wireless.

**"Availability"** means the percentage of time the Service is available (and not subject to a Critical Fault), determined in accordance with the Schedule (and **"Available"** and **"Unavailable"** and **"Unavailability"** shall be interpreted accordingly). Where a back-up Service is provided for use in the event of failure of a primary Service (for example, a DSL access circuit is provided as a back-up to a primary Leased Line access circuit), the Service will be deemed to be available if the back-up Service successfully deploys.

**"Cancellation Fees"** means the charges which shall be payable by the Client to the Company under the MCC on termination of a Contract or the Services, including the Client's liability to pay an amount equal to outstanding monthly rental Fees for the unexpired period of the Initial Term or the Renewal Term (as may be) pursuant to condition 9.8.2 of the MCC.

**"Care Level"** means the level of care that applies to the Service and which determines the times that the Company will provide cover for faults, whether

Standard Care or Enhanced Care.

**“Carrier”** means any supplier the Company uses in delivering the Services or any element of them (these may include but are not limited to Vodafone, Virgin Media and BT).

**“Circuit”** means a circuit provided as part of the Services as the context requires.

**“Clearance Time”** means the period, during Support Hours, from notification of a fault by the Client to the Company until restoration of Services in accordance with the Service Levels, excluding any period of Excluded Time (during periods of Excluded Time, the clock will be stopped in relation to Clearance Times and will not re-start until the Client takes action to enable investigative or corrective action to be resumed).

**“Client Equipment”** means the Client’s own equipment or apparatus used to obtain the Services.

**“Committed Delivery Date”** means a committed date(s) for commencement of Services to a Site as may be confirmed by the Company to the Client in writing.

**“CRF”** means customer requirement form;

**“Critical Fault”** means the total loss or failure of one or more Services to one or more Sites, as determined by the Company. For the avoidance of doubt, Services operating on backup or resilient links, line errors, or other intermittent faults which do not prevent the use of the Service, do not comprise Critical Faults.

**“Downgraded Services”** means a Service which has been downgraded to a slower circuit speed than that originally ordered.

**“Enhanced Care”** means Care Level 24 hours a day, 7 days a week.

**“Excluded Event”** means an outage or fault attributable to any one or more of the following:

- a fault in, or any other problem associated with, equipment connected on the Client’s side of the Service Demarcation Point or of equipment not covered by the defined Service;
- any power not supplied by the Company;
- any Client Equipment or the Client’s network, or incompatibility of Client Equipment with any Company Equipment or Third Party Services;
- any equipment or network outside the Carrier network used by the Company to provide the Services;
- BT Openreach circuits from a Site to the BT exchange;
- failure of any equipment in respect of which the Company has no management or maintenance responsibility, including non-maintained structured cabling or other telecommunications systems not operated or provided by the Company;
- the Client’s failure to arrange for the Company (or any other persons authorised by it) access to any equipment or the Site after receiving a

reasonable request to do so or the Client's failure to obtain all necessary permissions, consents or licenses from any parties to permit the Company to access a Site;

- for any other reason not the fault of the Company, it is unable to carry out any necessary work at, or gain access to the Site, or work is aborted;
- the Client's failure to provide the necessary space and power required for the installation and operation of NTE;
- the Client's failure to supply all reasonable information the Company requires;
- the Client's failure to operate the Services in accordance with the Contract or its misuse of these contrary to the Contract;
- the Client's delay or failure to perform any of its responsibilities including its obligations under the Contract;
- the fault, negligence or other act or omission of the Client or any third-party not within the Company's direct control (including actions of any third party provider acting on the Client's behalf);
- implementation of Change requests (including Service Upgrade) or during testing carried out at the Client's request although no fault has been detected or reported in accordance with this Agreement;
- Service suspension in accordance with the Contract;
- faults or outages that arise during a scheduled maintenance window, and planned outages;
- emergency outages in Third Party Services;
- outages or faults attributable to Third Party Services or acts or omissions of Carriers unless specifically included within their service level commitments to the Company;
- faults which are not reported to the Company;
- any reported Unavailability where the Company can find no fault;
- any Unforeseen Event (as defined in the MCC).

***"Excluded Time"*** means any period during which fault resolution is affected by reason of the Company's inability to gain access to a Site or the Client's failure to comply with the Company's instructions or to take requested action or provide information needed to investigate and/or restore Services.

***"Initial Delivery Date"*** means a target date as may be agreed between the Company and the Client for commencement of Services to a Site as set out in the Order Form or otherwise notified to the Client;

***"MCC"*** means the Company's Master Terms and Conditions of Contract setting out the general terms and conditions applicable to Services and/or Goods to be rendered or supplied by the Company to the Client from time to time.

***"Measurement Period"*** means an annual period commencing on the Service Start Date, or the anniversary thereof.

***"Normal Working Day"*** means Monday to Friday excluding bank and public holidays in England and Wales.

**“NTE”** means the equipment the Company provides on which the local access circuit is terminated.

**“Quarter”** three successive calendar months or, where a Service starts or terminates part-way through a calendar month, the relevant part thereof. **“Quarterly”** shall be interpreted accordingly.

**“Service Credits”** means reductions in certain Fees or compensation payments in respect of the Company failing to meet specified Service Levels, calculated in the manner set out in the Schedule.

**“Service Demarcation Point”** means, to the extent applicable, the Client facing port on the Client Equipment where the Company delivers Services to the Site, or the Client facing port on the NTE, or as may be specified otherwise in the technical specification for a Service.

**“Service Downgrade”** means downgrade of a Service to a lower circuit speed.

**“Service Levels”** means the service level commitments set out in the Schedule to this Service Agreement, in accordance with which the Company is to provide the Services.

**“Service Upgrade”** means upgrade of a Service to a higher circuit speed within the maximum access circuit speed.

**“Services”** means the “Internet” data connectivity services provided by the Company (which may include Ethernet services, leased lines or other connectivity services), as specified on the Order Form, as such services are more particularly described on the Internet section of the Website at URL <https://www.orbtalk.com>. Technical specifications of the Services, including details of the technical characteristics of the relevant Circuit, are available from the Company on request.

**“Standard Care”** means Care Level 0900hrs-1800hours, Normal Working Day.

**“Support Hours”** means the hours during which the Company will work to resolve faults with the Service, dependent on the support package or Care Level purchased by the Client, as specified on the Order Form. Where the Support Hours or Care Level are not specified on the Order Form, the period of cover will be 0900hrs-1800hours, Normal Working Day.

**“Third Party Services”** means services procured by the Company from third party providers, including Carriers, in connection with the provision of the Services.

**“Upgraded Services”** means a Service which has been upgraded to a higher circuit speed than that which was originally ordered.

**“Website”** means the site located at URL <http://www.orbtalk.com>.

The rules of interpretation detailed in the Definitions and Interpretation clause of the MCC will also apply to govern the way in which this Service Agreement is interpreted.

## **2. SCOPE OF SERVICES**

The Client hereby engages the Company to perform, and Company hereby agrees to perform for Client, the Services as specified on the Order Form and described in detail on the Internet section of the Website at URL <http://www.orbtalk.com>

## **3. TERM**

The Client must give not less than 90 (ninety) days' prior written notice to terminate the Contract or the Services at the end of the Initial Term or the relevant Renewal Term, as the case may be, if the Client does not want the Services to automatically continue for a (further) Renewal Term at the end of the Initial Term or then current Renewal Term. Notwithstanding the foregoing, Condition 4.3 of the MCC will apply to Small Business Customers.

## **CANCELLATION**

- 3.1. Save where condition 9.10 of the MCC applies, where an Order Form is cancelled by the Client prior to the Committed Delivery Date for whatever reason, the Company may charge the Client for any reasonable costs which the Company has incurred (eg. costs associated with network or infrastructure builds or obtaining wayleaves etc) up to the date it receives the Client's cancellation request, and any reasonable costs which it incurs as a result of such cancellation (including any cancellation charges for which the Company is liable to its Carrier(s)), together with an administration fee for the Company's time. Details of cancellation charges are available from the Company on request. The Client should contact the Company for confirmation of cancellation charges prior to cancellation.
- 3.2. The Client's liability under clause 3.1 above is without prejudice to any liability which it may have for Cancellation Fees in respect of rental Fees for the term of the Contract.

## **4. COMPANY'S OBLIGATIONS**

- 4.1. The Company will provide the Services with the reasonable skill and care of a competent telecommunications service provider. The Company can only provide services in areas of in which the Company, or its Carriers, are technically able to offer the Services from time to time.
- 4.2. The Company does not undertake to provide a fault free service.
- 4.3. Where the Company has agreed to provide any hardware or other equipment necessary for the provision or receipt of the Services (whether

by way of sale or rental etc), and to install and/or configure any such hardware or equipment, this will be specified on the Order Form, or will otherwise be notified to the Client in writing as will the corresponding Fees payable by the Client.

- 4.4. Where the Company provides Company Equipment located at Client premises for the provision or receipt of the Services, it will provide such maintenance services for the proper functioning of the Company Equipment as are reasonably required to provide the Services in accordance with the Contract including any applicable Service Levels. Where the Service is “wires only”, the Client is responsible for procuring all hardware and other equipment necessary for the receipt of the Services and for the repair and maintenance of such hardware and equipment.
- 4.5. The Service Demarcation Point is the point of handoff between the Company and the Client at the Site.

## **5. SERVICE PROVISIONING**

- 5.1. The Company will use its reasonable endeavours to ensure that the Services are ready for use by the Committed Delivery Date. Where the Service is being provisioned as part of a multi-product or multi-site solution, the project timelines jointly agreed between the parties will override the Committed Delivery Date in respect of individual Services and associated Service Credits. Notwithstanding the foregoing, any dates given for commencement of Services are estimates only and the Company shall have no liability for any failure to meet any Committed Delivery Date.
- 5.2. Unless the parties agree otherwise, the Client must agree an appointment for installation at a Site with the Company within 10 days of the Company notifying the Client of the Company’s proposed installation date. Where the Client does not comply with this clause, the Company will revert to its proposed installation date at a Site, unless the parties agree a new Committed Delivery Date.
- 5.3. The Client will be charged out-of-hours rates for any installation work required outside of Business Days at the rate of 150% of standard installation rates (or such other out-of-hours rate as may be notified by the Company from time to time), save where the Company incurs significant extra costs in which case the Client will be charged on a time and materials basis.
- 5.4. If a delay in provisioning the Services is caused by the Client, the Committed Delivery Date shall be extended by a reasonable period and the installation Fees may be increased by a reasonable amount to reflect any increase in installation costs which the Company incurs, including any charges for which it is liable to its Carrier(s), as a result, subject to the Company confirming such costs to the Client in writing.
- 5.5. Where an Order Form is modified prior to the Committed Delivery Date, the Company may charge the Client for any reasonable costs the Company

incurs, including any charges for which it is liable to its Carrier(s), as a result of such modification and the Company may amend the installation and/or monthly rental Fees due to such costs.

- 5.6. The Client accepts that it may not be able to receive the Services due to certain technical restrictions, including without limitation restrictions on the geographical areas in which certain Services are available, and the Company reserves the right to not provide a Service to any Site, including where it is deemed not suitable for the provision of the Service, or exceptionally to withdraw a Service where technical limitations do not become apparent until after the Service has been installed, in each case without liability to the Client. If such technical restrictions are discovered after the Effective Date, condition 9.10 of the MCC shall apply.
- 5.7. Where the Company needs to install the Company Equipment at a Site to enable the Company to provide the Service, the Client will prior to installation and in accordance with the Company's reasonable instructions:
  - 5.7.1. prepare the part of the Site where the Company equipment will be located;
  - 5.7.2. make available a suitable place and conditions for the Company Equipment (i.e. suitable accommodation, assistance, facilities and environmental conditions for the Company Equipment); and
  - 5.7.3. provide at no charge to the Company with sufficient electricity to power the Company Equipment.
- 5.8. The Charges for the installation Services are subject to the following assumptions:
  - 5.8.1. the Site at which the installation Service will be performed has no redundant hardware on-site to decommission, remove from site and/or dispose of (unless the Company agrees otherwise in writing with the Client);
  - 5.8.2. the Site at which the installation Service will be performed is within mainland UK in a major town or city and with no impediment to road travel;
  - 5.8.3. the installation Service shall take a maximum of 3 hours (commencing from the time of the scheduled appointment, and the engineer arrival to the Site regardless of the time that the engineer actually commences the installation); and
  - 5.8.4. that the installation Service shall be performed during Business Days 0900hrs-1800hours.

Where the assumptions set out at in this Clause 5.8 are not met, the Company reserves the right to reasonably increase the Charges payable for the installation Services.

5.9. Upon completion of the installation Services, an installation Service Sign-off shall be issued by the Company for signature by both of parties. Once signed by both parties, this document shall certify that the installation Services have been carried out to the Client's reasonable satisfaction.

5.10. If an installation Service sign-off document is not signed by the Client and then the Client, or its Users, use of the relevant Services within a live environment for not less than two weeks, this shall be deemed to be acceptance by the Client that the installation Service have been carried out to its reasonable satisfaction.

## **6. SERVICE LEVELS**

### **Service Availability**

6.1. The Company will endeavour to provide Service Availability in accordance with the Service Availability target set out in Part 1 of the Schedule.

6.2. The Company cannot guarantee the Services will be error free and/or uninterrupted. The Client agrees that its use of the Service is at the Client's sole risk. The Company makes no warranty that the Services will meet the Client's requirements.

6.3. Where a back-up Service is provided for use in the event of failure of a primary Service (for example, a DSL access circuit is provided as a back-up to a primary Leased Line access circuit), the Client will not be entitled to Service Credits for failure to meet Service Levels in respect of the primary Service if the back-up Service deploys with no material interruption. The Service Levels are only applicable to the back-up Service when the primary Service is Unavailable, and in this scenario the Service Levels which apply are the Service Levels stated for the back-up Service and not the primary Service.

### **Service Performance**

6.4. Where these are applicable (dependent on the Service element or particular access technology), the Company will endeavour to meet the Service performance targets set out in Part 1 of the Schedule.

6.5. Service performance will be measured by determining whether the relevant Service performance targets set out in Part 1 of the Schedule are met for the specific service degradation measurements detailed in that Part 1.

### **Fault clearance**

6.6. The Company will repair faults in accordance with the fault repair service detailed in Part 1 of the Schedule. Faults will be categorised by the

Company and managed according to their priority, and the Company will endeavour to resolve Critical Faults within the target Clearance Times set out in Part 1 of the Schedule. If the problem lies with the Client or a third party tail circuit provider or there is an Excluded Event, then the Clearance Time may be affected.

## **Service Credits**

- 6.7. Where Service Levels are not met, subject to the other provisions of this Service Agreement, the Client may be entitled to Service Credits in accordance with the Schedule.
- 6.8. Service Credits are the Client's sole and exclusive financial remedy with respect to failure to meet the Service Levels, and the Company's liability to the Client for such failure shall be limited to the amounts payable to the Client as set out in the Schedule (subject to the other limits in this Service Agreement). The Company has no liability for failure to meet any Service Level, save to the extent specifically provided for in the Schedule. Without prejudice to the foregoing, where the Schedule does not provide for award of Service Credits in respect of failure to meet a particular target or Service Level, this is given on a "reasonable endeavours" basis only and the Company shall not be liable to the Client in respect of such failure.
- 6.9. Service Credits are not available where the Company's failure to meet Service Levels results directly or indirectly from an Excluded Event.
- 6.10. Service Credits are calculated at the Client's request and are paid (as a billing credit) on an annual basis in respect of the Service Credits which have accrued over the preceding four Quarters. Service Credits will apply against the next applicable invoice for the rental charge for the Service or, where the Service or the Contract is terminated, by means of a payment by the Company. The Company may off-set all or part of any such amounts against any sums outstanding from the Client under the Contract which are overdue.
- 6.11. Where Service Credits are available under more than one Service Credit scheme in respect of a failure, the Client may elect under which scheme to claim. However, the Client is not eligible for Service Credits under more than one scheme.
- 6.12. Where a solution comprises various individual components, and a component is backed by Service Levels, any associated Service Credits are based on the Fees in respect of the individual component. Where the Service incorporates a Company-managed primary and back-up circuit, configured for failover to the back-up circuit in the event of failure of the primary circuit, Service Credits are based on the monthly Fees for the primary circuit and only in the event of a complete loss of service to the relevant Site.
- 6.13. Notwithstanding the other provisions of this Service Agreement, including the Schedule, the Company's maximum total liability for Service Credits in

respect of a Service in any calendar month is 50% of the monthly rental charges for the affected Service.

- 6.14. Notwithstanding the other provisions of this Service Agreement, including the Schedule, the Company's maximum total liability for Service Credits in respect of a Service in any one year is 15% of the total rental charges for the affected Service for that year.
- 6.15. The Client must submit written claims for applicable Service Credits no later than 30 days following the end of the Quarter within which the right to the Service Credit arose.
- 6.16. The Client acknowledges that only those performance measures produced by the Company will be used as the basis for assessing the Company's performance and whether Service Levels have been met. If the Client disputes the Company's decision as to amount of or eligibility for Service Credits, then the Client must notify the Company within 14 days of receipt of the Company's notice of decision. However, save in the case of manifest error, the Company's decision as to its performance and eligibility for and amount of Service Credits shall be final and binding.
- 6.17. There may be limits on Service Levels (including Service Availability and performance targets) and availability of Service Credits in respect of Sites located in certain geographical coverage bands outside of the UK or in the Isle of Man, Guernsey, Jersey or the Channel Islands. Details of Availability targets and Service Credit schemes in respect of Sites within those locations are available from the Company on request.
- 6.18. The Company will try and agree with the Client in advance where Services will be interrupted for planned work (including maintenance and upgrades), to minimise any disruption. The Company will endeavour to give a minimum of 3 days' prior notice of planned maintenance which may be Service-affecting. However, where emergency maintenance is required it may not always be possible to provide prior notice. The Client acknowledges that the Company is dependent on receipt of notice from its Carriers of planned outages or maintenance.

## **7. FAULT REPORTING**

- 7.1. The Client agrees to cooperate with the Company and its third party providers in respect of the diagnosis and resolution of faults with the Services, including by providing all information, organising access to the Site(s) and undertaking any initial tests or procedures the Company may advise to demonstrate that the fault is not with Client Equipment, as may be reasonably required.
- 7.2. Without prejudice to the foregoing, the Client agrees to notify the Company promptly, in accordance with the Company's fault reporting procedures, if it discovers a problem with the Services and, where possible, to notify the Company at least 15 days in advance of any works or activities at the Site(s) which are likely to disrupt the Services.

- 7.3. The contact details for the Company's Support Desk, and details of the Company's reporting procedures are available on the Website at <http://support.orbtalk.co.uk> or from the Company on request. All faults in the Service must be reported to the Company and not directly to its Carriers.
- 7.4. Where the Company investigates a fault and either no fault is found or the fault is due to the Client Equipment or apparatus or any other act or omission of the Client, or a Site visit is either aborted by the Client or turns out to be unnecessary or the Company is unable to gain access for a pre-arranged appointment, the Company is entitled to charge the Client at its then current standard rates (as varied from time to time), available on request, which may include any third party costs incurred by the Company as a direct result.
- 7.5. The Client may escalate a problem which has not been resolved to its satisfaction at any time by contacting the Company's Support Desk and requesting escalation, using the contact details referred to in clause 8.3 above. An acknowledgement of such complaints will be issued promptly and appropriate action taken to investigate and resolve the problem. All such complaints will be targeted for resolution within 28 days from the date they are first notified to the Support Desk.
- 7.6. Initially the Company will work remotely to resolve all faults (providing advice by email or telephone, including advice, where appropriate, as to tests and checks to be carried out by the Client, and where possible, carrying out diagnostic checks from the Company's premises). If, after investigation, the Company considers that the fault has not been resolved or that a solution does not seem imminent, it may arrange for an engineer visit to the affected Site, or to provide replacement Company Equipment, unless the Company deems the fault originated as a direct result of the failure at a Site of any equipment in respect of which the Company has no management or maintenance responsibility.

## 8. SERVICE CHANGE REQUESTS

- 8.1. **Regrades of Services** - subject to clauses 8.2 and 8.3 below, the Client may request a Service Upgrade or a Service Downgrade, in accordance with condition 7 of the MCC or by submitting an Order Form (as the Company may require).
- 8.2. Notwithstanding clause 8.1 above, during the Initial Term, or the then current Renewal Term, the bandwidth of a Circuit cannot be reduced below the original bandwidth initially provisioned for the relevant Circuit, and the Client may only request the Company to provide Downgraded Services on expiry of the Initial Term or (as may be) the then current Renewal Term of the relevant Services.

- 8.3. Upgraded Services shall be subject to a new minimum Initial Term commencing on the date on which Company first makes the Upgraded Services available for use by the Client. Downgraded Services shall be subject to a new minimum Initial Term commencing on the expiry of the existing Initial Term or Renewal Term (as may be) or at any time thereafter as notified by the Company in writing. Revised Fees will apply. Reconfiguration Fees may also apply (and will be notified by the Company for approval by the Client before the implementation of the change).
- 8.4. The Client may only request a regrade of the Services in respect of any Circuit once per calendar month unless the Company agrees otherwise in writing.
- 8.5. **Other modifications of Service by the Client** – where the Client requires substantial changes to a Circuit (including but not limited to the relocation of an existing Circuit, change in A-end or B-end location, change in capacity or change in presentation), the Company or its Carriers will undertake a feasibility study where appropriate. The Company reserves the right to charge reconfiguration Fees or treat the modification as a cease and re-provide and charge Cancellation Fees.
- 8.6. There may be periods within which changes to Services cannot be implemented. The Company will endeavour to provide the Client with reasonable notice of this.
- 8.7. The Client should note that a Service change request may result in a one-off charge being payable and a revision to the monthly rental Fees related to the change requested.

## 9. MOVING ADDRESS

- 9.1. The Company will provide the Services at the Site the Client specifies in the Order Form.
- 9.2. If the Client moves to another address within the Company's service area, the Client may ask the Company to provide the Services to the Client new address (and the Client must give the Company at least 90 days prior notice before the move). The Company will carry out checks in the Client new address, but cannot guarantee that the Company will be able to provide the Client with the Services at the Client new address.
- 9.3. If the Client moves to another address before the end of any applicable Initial Term (or Renewal Term), a Cancellation Fee may apply to the Client unless the Client agrees to keep receiving the Company Services at the Client new address and the Company agrees, and is able, to provide these Services in the Client's new address.
- 9.4. If the Company agrees to provide the Services to the new address, the Company will give the Client an estimated date (or dates) to complete the move of the Services. The Client may have to pay a service transfer Fee and/or an installation Fee specified by the Company in advance.

- 9.5. The Services the Client receives in the new Site may vary from the Services the Client was receiving in the previous Site. Where required, the Company will send the Client a new contract for the Services that the Company will provide to the Client in the new address, and the Company will ask the Client to enter into a new Initial Term or Renewal Term (as appropriate), and the Client Fees will be adjusted accordingly.
- 9.6. The Client may not be able to keep its phone number(s) if the Client moves to a new address.

## **10. CLIENT'S OBLIGATIONS**

- 10.1. Without prejudice to condition 5.2.1 of the MCC, before the date on which the Services are to start the Client shall (at its own expense) obtain all necessary wayleaves, servitudes, rights of way and other licences, consents and approvals necessary for the provision of the Services and Circuit(s) to, and the installation and maintenance of Company Equipment at, the Site(s), and the Client shall maintain these throughout the term of the Services.
- 10.2. The Client warrants as a continuing warranty that it is the current occupier of the Site(s) and that its right of occupancy does not expire prior to the end of the Initial Term (and, where applicable, the Renewal Term).
- 10.3. The Client is responsible for any redecorating or making good at the Site(s) which is required further to installation of any Company Equipment and implementation of the Services.
- 10.4. Save to the extent that the Company has agreed to provide any hardware necessary for receipt of the Services (as may be specified on the Order Form or as otherwise agreed in writing), the Client shall be responsible for procuring all hardware necessary for the receipt of the Services, in conformity with applicable law and any Guidelines and which the Company agrees is suitable.
- 10.5. The Client is responsible for the repair and maintenance of Client Equipment.
- 10.6. The Company accepts no liability for any loss the Client may suffer as a result of its use or misuse of the Client Equipment or as a result of any faults in Client Equipment. It is the Client's responsibility to ensure that Client Equipment interfaces with the Company Equipment in accordance with the instructions supplied, whether by the Company or its third party providers.
- 10.7. The Company may disconnect any Client Equipment which does not meet the foregoing requirements or if, in the Company's reasonable opinion, it is likely to cause damage or injury to the Company's or any third party provider's property or personnel or to materially affect the quality of any services provided by the Company or by any third party (including the

Carriers) whose network, equipment or services are used in the provision of the Services, or is suspected of being used for the transmission of malicious traffic or otherwise in breach of the use restrictions in the MCC or any Acceptable Use Policy or Fair Use Policy of the Company applicable to the Services.

- 10.8. If the Client does anything to the Client Equipment, there is a risk that such action will impact upon the Client's ability to receive the Services. If any such action does take place and the Client subsequently requires the Company to re-configure and/or reconnect the Services in any way, then the Client shall be responsible for the Company's reasonable Fees in respect of such work including any costs or expenses which the Company incurs in this regard.
- 10.9. The Client shall be solely responsible for procuring and maintaining sufficient electrical power supplies at its premises to avail itself of the Services. Back-up power with sufficient capacity to conform to the stand-by requirement of the relevant British Standards is needed if Services are required to continue uninterrupted in the event of a failure of the main power supply.
- 10.10. The Client shall be solely responsible for procuring and maintaining appropriate security infrastructure to connect with the Services. Neither the Company nor its third party providers shall be liable for any breaches of security in the Client's network arising from the Client's failure to comply with any instructions supplied in respect of interfacing with Company Equipment or otherwise in respect of Company Equipment installed at the Site.
- 10.11. The Client shall keep confidential all user id and passwords to access the Services.
- 10.12. Without prejudice to condition 5.2.2 of the MCC, the Client shall take reasonable steps to minimise risk of security breaches in connection with the Services, including in respect of any hardware or other equipment used in conjunction with the Services or to access these or which is otherwise used in connection with the receipt of the Services. The Company shall not be liable to the Client for any loss or damage that the Client suffers as a result of any virus or other hostile computer program being introduced into its computers or computer systems as a result of its use of the Services.
- 10.13. The Client is responsible for insuring against all loss of or damage to data stored on or transmitted using the Services.

## **11. CHARGES**

- 11.1. Fees fixed for the Initial Term - Subject always to the Company's right to increase Fees as set out in condition 9 of the MCC, the Fees for the Services will be fixed for the relevant Initial Term.

THE CLIENT AND THE COMPANY SHALL BE BOUND BY THE TERMS OF THE CONTRACT WHEN THE COMPANY ISSUES WRITTEN ACCEPTANCE OF THE CLIENT'S ORDER