

This Managed Services Agreement ("MSA") sets out on the Order Form below the details that have been agreed between the Customer and **Content+Cloud Corporation**, a Delaware corporation, Doing Business As (DBA) Sipcom, and whose principal office is at 99 Wall Street, Suite 280, New York, NY 10005 ("Supplier"). By signing this document, the Customer acknowledges and agrees it represents a Contract between Supplier and the Customer and it is subject to the Supplier Terms and Conditions for Business Services ("Conditions") attached and incorporated hereto by this reference.

ORDER FORM

Customer
Company Name:
State of Incorporation:
Principal Office Address:

Customer Billing Details	
Address:	
Billing Contact Name:	Services Contact Name:
Title:	Title:
Telephone:	Telephone:
Email Address:	Email Address:

Customer Site(s)	
Primary Use Location Address*:	Customer Site Contact: Name/Title/Telephone/Email
Site Address:	Customer Site Contact: Name/Title/Telephone/Email
Site Address:	Customer Site Contact: Name/Title/Telephone/Email

*The Primary Use Location will be used as the delivery location for NRC and one-off charges including professional services.

Continuation sheet applies? ☒ here ☐

Authorized Agent (if applicable)		
Company:	Address:	Salesperson: Telephone: Email:

Services	Qty	Frequency	Charge

Frequency = defines Charge as monthly or one-off

Continuation sheet applies. ☒ here ☐

Minimum Contract Term & Charges*		
Minimum Contract Term	Initial Charge	Monthly Services Charge

*On expiration of the Minimum Contract Term, Charges will continue to be payable at the same frequency and in the same amount as the Monthly Services Charge shown above, or subsequently updated. All Charges exclude any applicable sales and/or use or other taxes.

Additional Information		✓ <input type="checkbox"/>
Service Details	Services will be provided in accordance with the relevant Service Catalogue (available upon request) and any applicable Service Schedule (as defined in the Conditions).	<input type="checkbox"/>
Service Delivery	The delivery is defined as the Services Start Date. The estimated Services Start Date will be confirmed by Supplier normally within 14 days of Supplier's receipt of this signed Order Form. Specific delivery requests, if any, are provided in the Notes section below.	<input type="checkbox"/>
Service Level Agreement (SLA)	Supplier's standard SLA (available at https://www.sipcom.com/legal) sets out how Supplier delivers the Services and monitors performance. Changes to the standard SLA, if any, are provided in the Notes section below.	<input type="checkbox"/>
Finance Arrangement	If the Order Form includes items covered by a separate Finance Arrangement, this is detailed in the Provision of Equipment Schedule that forms part of this Contract.	<input type="checkbox"/>
Usage Charges	All Usage associated with the Services are subject to additional charges invoiced at Supplier's standard Usage rates (available upon request, but with regards to any licence increases, the then current licence rate detailed on the Order Form will apply) (the "Usage Charges"). Any changes to standard Usage rates, if any, are provided in the Notes section below.	<input type="checkbox"/>
Customer Equipment	Any equipment provided by the Customer and utilised to deliver the Services must be compatible for the Services and approved by Supplier.	<input type="checkbox"/>
Flow Down Terms	Where Services are provided by Third Parties, applicable Flow Down Terms shall apply available at https://www.sipcom.com/legal .	<input type="checkbox"/>
Data Protection Addendum	Where processing of Personal Data is involved, the Data Protection Addendum shall apply.	<input type="checkbox"/>
Telephone Services Schedule	Where Services include interconnected VoIP Services, the Telephone Services Schedule shall apply.	<input type="checkbox"/>
Provision of Equipment Schedule	Where Services require the Supplier to rent or sell Equipment, the Provision of Equipment Schedule shall apply.	<input type="checkbox"/>
Notes (includes changes to the Conditions)		

BY SIGNING BELOW, THE SIGNATORY REPRESENTS AND WARRANTS THAT S/HE IS DULY AUTHORISED TO EXECUTE AND DELIVER THIS ORDER FORM ON BEHALF OF THE ENTITY FOR WHICH S/HE IS SIGNING AND ACKNOWLEDGES THAT THE ORDER FORM AND ATTACHED CONDITIONS ARE BINDING UPON THE ENTITY.

Signed for and behalf of the Customer	Signed for and behalf of Supplier
Authorized Signature:	Authorized Signature:
Name:	Name:
Position:	Position:
Date:	Date:

☐ No continuation sheets attached.

☐ Continuation sheets attached (please provide number of continuation sheets) _____

TERMS AND CONDITIONS FOR BUSINESS SERVICES ("CONDITIONS")

1. DEFINITIONS AND INTERPRETATION

1.1. In this Contract the following terms have the meanings shown next to them:

Affiliate in respect of a Party, means in relation to any entity, (a) that entity; (b) any subsidiary undertaking or parent undertaking of such entity or a subsidiary undertaking of any such parent undertaking from time to time; or (c) any controlling, controlled by, or under common control with, the relevant entity of any of the aforementioned parent undertakings or subsidiary undertakings. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a party, whether through the ownership of voting securities, by contract, or otherwise.

Applicable Laws means laws, regulations, orders, and other requirements of any government authority (federal, state, local, or international) having jurisdiction including those of the United States of America and the State of New York as may be applicable.

Applicable Data Privacy Laws means all data protection and privacy laws applicable to the processing of Personal Data under the Contract, including the General Data Protection Regulation ((EU) 2016/679 ("EU GDPR"), the California Consumer Privacy Act ("CCPA"), the Colorado Privacy Act, the Connecticut Act of 2022 Concerning Personal Data Privacy and Online Monitoring, the Utah Consumer Privacy Act of 2022, the Virginia Consumer Data Protection Act, in each case as amended from time to time and including any regulations promulgated thereunder.

Authority means a regulatory or government or other competent authority including but not limited to the Federal Communications Commission (FCC) or similar authority and their successors from time to time.

Business Day means any day other than a Saturday, Sunday and any day which shall be a federal legal holiday or a day on which banking institutions in the State of New York are authorized or required by law or other governmental action to close.

Charge(s) means all charge(s) (including, without limitation, the Initial Charge, Rented Equipment Monthly Rent, Purchased Equipment Charge, Monthly Services Charge and License Fees) and any other amounts payable by the Customer under this Contract and shall include charges arising through Fraud.

Conditions mean these Terms and Conditions for Supplier Business Services.

Confidential Information means all confidential information (however recorded or preserved) disclosed by a Party or its employees, officers, representatives, advisers or subcontractors (including that of its Affiliate(s) in its Group) involved in the provision or receipt of the Services (together, its "**Representatives**") to the other party and that party's Representatives in connection with this Contract which information is either labelled as such or should reasonably be considered as confidential because of its nature and the manner of its disclosure. Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the disclosing party, (ii) was known to the receiving party prior to its disclosure by the disclosing party without breach of any obligation owed to the disclosing party, (iii) is received from a third party without breach of any obligation owed to the disclosing party, or (iv) was independently developed by the receiving party.

Contract means the agreement between Supplier and the Customer comprising the following documents, in the following order of precedence: the Order Form; any applicable Flow Down Terms, any Service Schedules and any appendices; these Conditions; and/or other documents expressly incorporated in writing between the Parties.

Customer means the customer as identified on the Order Form.

Customer Agreement means the customer agreement, which is a direct agreement between the Customer and Microsoft and it is a condition of the "Cloud Solution Provider Program" that the Customer enters into the Customer Agreement, the terms of which are found at <https://www.microsoft.com/licensing/docs/customeragreement> and which may be updated from time to time.

Customer Equipment means any equipment, including any hardware, software, systems, cabling or facilities provided by the Customer and used directly or indirectly in the provision of the Services.

Customer Personal Data means any personal data Customer transfers to Supplier, and which Supplier processes in connection with this Contract, in the capacity of a processor on behalf of the Customer.

Customer System means the information technology and communication systems, including networks, hardware, software and interfaces owned by, or licensed to, the Customer or any of its agents or contractors.

Data means all data and information that may be received, processed, stored, or transmitted by Supplier for or on behalf of Customer in connection with the Services, including Customer Personal Data.

Data Protection Addendum or **DPA** means an addendum to this Contract governing the processing of Personal Data between the Parties and shall be in effect as of the Effective Date.

Documentation means the then current User guides, if any, that are provided by the Supplier for use with the Services.

Developed Materials means all materials developed by Supplier (or its sub-contractors) exclusively for the Customer pursuant to the Contract, including all IPR therein.

Early Cancellation Charge means the charge applicable to the Customer for cancelling the Contract before the Services Start Date as detailed at clause 9.1.

Early Termination Charge means the charge applicable to the Customer for terminating all or part of the Contract after the Services Start Date but before the Minimum Contract Term expiration date as detailed at clause 9.3.

Effective Date means the date of signature of this Contract.

Flow Down Terms means any terms and conditions applicable to Services provided under this Contract by a Third Party and appended to this Contract or provided to the Customer by the Supplier from time to time.

Force Majeure has the meaning given to it in clause 17.1.

Fraud or **Fraudulent use** shall include (without limitation): (i) theft, fraud, fraudulent activity, unlawful use, misuse and/or deception (whether actual or attempted and howsoever arising including but not limited to telephony, cyber and/or malware) in relation to the use of SaaS systems, applications, platforms, software, products and/or the Services; and/or (ii) unauthorized fraudulent activity, unlawful use or misuse (whether actual or attempted including through cyber and/or malware) of the SaaS systems, applications, software products and/or the Services; and/or (iii) consumption, fraudulent purchase(s) and/or Usage Charges howsoever arising under (i) and (ii) herein.

Group in relation to a company, that company, any subsidiary, Affiliate, or any holding company from time to time of that company, and any subsidiary and/or Affiliate from time to time of a holding company of that company. Each company in a Group is a member of the Group.

Initial Charge means the sum of the initial Rented Equipment Monthly Rent and/or Monthly Services Charge as detailed on the Order Form, sometimes also called non-recurring charge or NRC.

Intellectual Property Rights or **IPR** means any and all intellectual property rights of any nature, whether registered, registerable or otherwise, including, patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights that subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars, marketing methods and procedures and advertising literature, including the "look and feel" of any websites, and in each case all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these that may subsist anywhere in the world, in each case for their full term, together with any future rights and renewals or extensions.

Licensed User Agreement means those terms and conditions applicable to the use of any software (including any Third Party software) by the Customer that is licensed to the Supplier by the licensor as set out in the Order Form. The right to use such software and the applicability of any Licensed User Agreement is subject to the Customers understanding of, compliance with, and if required, prior written consent to the terms and conditions set out in the applicable Licensed User Agreement, as varied from time to time.

License Fees has the meaning given to it in clause 13.1.

Minimum Contract Term means the minimum term over which the Services will be provided to the Customer which is thirty-six (36) months, or as otherwise stated on the Order Form and commences on the Services Start Date.

Office Hours means between 9.00am and 5.30pm Eastern Time on Business Days.

Order Form means the order form which sets out the Services under separate cover and which incorporates the Conditions.

Password Policy means the Supplier password policy as available on www.sipcom.com under Policies and as may be amended from time to time.

Personal Data shall mean as defined in Applicable Data Privacy Laws.

Privacy Policy means the Supplier privacy policy as available on www.sipcom.com under Policies and as may be amended from time to time.

Renewal Term has the meaning given to it in clause 2.2.

Sanctions means any sanctions relating to any persons designated on the sanctions lists in the European Union (EU), United Kingdom (UK), United Nations (UN) or United States (US).

Services means the services or part of the service or equipment that is ordered by the Customer and specified in the Order Form.

Service Catalogue means a document that describes the specifications of the Services or part of the Services provided by Supplier on request or available on the Supplier or Third Party website.

Service Level Agreement or **SLA** means the standard service levels set out by Supplier describing how performance of the Services is delivered and monitored by Supplier.

Service Schedule(s) means any applicable schedule to these Conditions that provide specifications of the Services and provided by the Supplier to the Customer and updated from time to time. This includes the Service Catalogue(s) and the Service Level Agreement.

Services Start Date means the date on which the Services are first made available to the Customer by Supplier.

Site means the Customer site(s) at which Supplier provides Services, as specified in the Order Form or in subsequent variations to the Order Form.

Supplier means Content+Cloud Corporation, a Delaware corporation, with a principal office located at 99 Wall Street #280, New York, NY 10005 and any assignee thereof, and includes Supplier's Affiliates for purposes of all limitations of Supplier's liabilities and all obligations to indemnify Supplier set forth in these Conditions.

Supplier IPR means IPR owned by or licensed to the Supplier's Group (including without limitation and software proprietary to Supplier Group and Supplier Pre-Existing IPR) and more fully identified in the Order Form and relevant Service Schedule.

Tax means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any governmental authority, including any interest, additions to tax or penalties applicable thereto.

Term has the meaning given to it in clause 2.2.

Third Party means a vendor, individual or entity, other than Supplier, that provides a service to Supplier or the Customer (either directly or indirectly through Supplier).

Third Party Conditions has the meaning given to it in clause 4.12.

Third Party IPR means IPR owned by a person other than Customer or Supplier Group.

Third Party Software means any third party software as specified in the Order Form, to be provided to the Customer by Supplier pursuant to this Contract.

Usage means that service consumed or added by the Customer as a result of utilizing the Services that is quantified by data records or usage reports provided by Supplier or a Third Party that in combination with the applicable Usage Charges, set out on the Order Form, forms part of the Charges. Where Usage (including, but not limited to, telephone calls, data charges and in respect to licences set out in the Order Form Services table, any additional licenses and/or users that can be or/and have been consumed and/or added by the Customer, (e.g. enabling users for Direct Routing and Reporting & Analytics), has been quantified, it will be subject to additional charges invoiced at Supplier's standard Usage rates (available upon request, but with regards to any licence increases, the then current licence rate detailed on the Order Form will apply). Additionally, where Usage includes licences added by the Customer then these licences will be conjoined with those equivalent Services set out on the Order Form.

User means anyone who uses or accesses the Services.

User Security Details means any IDs, usernames, personal identification numbers and passwords.

Virus means without limitation, any malicious code, Trojans, worms and viruses, lock, authorization key or similar device that impairs or could impair the operation of the Third Party Software and or the Services.

- 1.2. In this Contract unless the context otherwise requires:
 - 1.2.1. "writing" or "written" includes email;
 - 1.2.2. a statute or a provision of a statute is a reference to it as amended, extended or re-enacted from time to time;
 - 1.2.3. this "Contract" is a reference to this Contract and each of the Appendices as amended or supplemented at the relevant time;
 - 1.2.4. references to clauses and Appendices are to the clauses and Appendices of this Contract and references to paragraphs are to paragraphs of the relevant Appendix; and
 - 1.2.5. a "Party" or the "Parties" refer to the parties to this Contract.
- 1.3. The headings used in this Contract are for convenience only and shall have no effect upon the interpretation of this Contract.
- 1.4. References to either gender shall include any other gender.
- 1.5. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.
- 1.6. Any words following the terms **including**, **include**, **in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

2. TERM AND COMMENCEMENT

- 2.1. The Contract commences on the Effective Date and continues until terminated by either party in accordance with this Contract.

- 2.2. Upon expiration of the Minimum Contract Term, this Contract shall automatically renew for an additional successive twelve (12) month term unless either party provides written notice of non-renewal at least ninety (90) days prior to the end of the then current term (each a **"Renewal Term"** and together with the Minimum Contract Term, the **"Term"**), or unless sooner terminated as provided in clause 9. If the Term is renewed for any Renewal Terms pursuant to this clause, the terms and conditions of this Contract during each such Renewal Term shall be the same as the terms and conditions in effect immediately prior to such renewal, subject to any change in the Charges payable hereunder by the Customer during the applicable Renewal Term as set forth in clause 10. If either party provides notice of its intent not to renew this Contract in accordance with this clause, then, unless otherwise sooner terminated in accordance with its terms, this Contract shall terminate on the expiration of the then current Term.
- 2.3. The Services commence on the Services Start Date. Where the Services are delivered in phases the Services Start Date shall also be phased.
- 3. PROVISION OF THE SERVICE**
- Provision of the Services; Compliance – Voice Regulations, Authority and Tax**
- 3.1. Supplier may provision Services through one or more Affiliates at its sole discretion, among other reasons, related to compliance with Applicable Law and the terms of its regulatory licenses or registrations. Content+Cloud Corporation, will deliver the Services provided in the United States and Canada, and Sip Communications Limited will deliver those Services provided in all other regions where Supplier supports its Services.
- Site Preparation, Access, Delivery and Installation**
- 3.2. In the event the Supplier requires access to the Site for the purposes of performing its obligations under this Contract, the following terms shall apply:
- 3.2.1. The Customer agrees to prepare the Site according to any reasonable instructions Supplier may give and to provide Supplier with reasonable access to the Site for the purposes of performing its obligations under this Contract.
- 3.2.2. If the Customer connectivity method utilizes the Customer's Third Party public internet, it is the Customer's responsibility to ensure the connectivity is suitable for the Services and fit for purpose and Supplier shall have no liability for any failure or delay in providing the Services, in whole or in part, due to the unsuitability of such connectivity.
- 3.2.3. The Customer and Supplier shall meet each other's reasonable safety and security requirements when on the Site. If the Customer or Supplier damages the other's equipment while on Site, it must repair or replace the damaged equipment as soon as reasonably practicable.
- 3.2.4. The Customer shall be responsible for restoring the Site, after any access and installation has been undertaken by Supplier at the Site.
- 3.3. The Customer shall bear any installation charges not agreed or identified in the Order Form including third-party installation charges prior to the associated work being undertaken. Any costs associated with any delays experienced as a result of the failure to agree these additional charges with the Supplier will also be the responsibility of the Customer.
- 3.3.1. Supplier shall use reasonable endeavors to provide the Services by the estimated Services Start Date with the Customer, but, for the avoidance of doubt, such date shall be an estimate only and time shall not be of the essence in relation to any performance and/or delivery dates, and Supplier shall have no liability in respect of any late performance and/or delivery. The Customer shall use all reasonable endeavors to ensure the estimated Service Delivery Date can be met.
- 3.3.2. The Customer shall comply with clause 4.12 and 13 in respect of any applicable Third Party Software.
- Subcontractors**
- 3.4. Supplier may, at its sole discretion, perform any of the Services by or through an Affiliate and/or Third Party.
- Services Availability**
- 3.5. Subject to the terms of this Contract, Supplier shall use reasonable endeavors to make the Services available in accordance with any SLA referenced on the Order Form.
- Scheduled Downtime and Emergency Maintenance**
- 3.6. Subject always to the applicable Third Party Conditions, the Supplier shall use reasonable endeavors to schedule downtime for routine maintenance or updates to the Services on days and at times that cause the minimum disruption to any Supplier services. In the event Supplier believes that this downtime may cause disruption to the Customer's Services it shall provide the Customer with twenty-four (24) hours prior notice of all scheduled outages of the Services.
- 3.6.1. In the event emergency maintenance is required the Supplier shall use reasonable endeavors to notify the Customer at the earliest opportunity, however given the nature of the maintenance this may not be in advance.
- Faults and Interruption to Services**
- 3.7. Supplier is unable to warrant that the Services will be uninterrupted or error free and the Customer understands and agrees that from time-to-time faults and/or Services interruptions may occur.
- 3.7.1. If the Customer reports a fault or interruption in the Services, Supplier shall use reasonable endeavors to repair the fault or interruption in accordance with the timeframes set out in the SLA. For the avoidance of doubt, all timeframes set out in the SLA shall be estimates only and time shall not be of the essence in relation to such timeframes.
- 3.8. If Supplier agrees to work outside Office Hours, or if the Customer reports a fault and Supplier determines there is no fault, or that the Customer has directly or indirectly caused the fault, Supplier, in its sole discretion, may apply an additional support charge in accordance with Supplier's then current rate card (available on request).
- 3.8.1. In the event the fault is caused by a Third Party, Supplier shall use reasonable endeavors to facilitate the resolution of the fault or interruption, however, the Customer agrees that Supplier shall not be liable for any delays caused by the Third Party.
- 3.9. If the Customer requests a service call from a Third Party arranged by Supplier then the Customer accepts that in the event this service is chargeable and/or no fault is found, the Customer shall be charged for the service call at a rate based on the applicable Third Party cost plus an additional 20% to cover Supplier's administrative expenses.

4. REGULATIONS AND USE OF THE SERVICE

4.1. Any Customer Equipment must be:

- 4.1.1. technically compatible with the Services and not harm Supplier's network, Third Party network or another customer's equipment or use of services;
- 4.1.2. connected using the applicable Supplier network termination point or other Supplier approved process, and used in compliance with any relevant Supplier instructions, standards or Applicable Laws; and
- 4.1.3. adequately protected against Viruses and other breaches of security.

Proper use

4.2. The Services must not be used:

- 4.2.1. in any way that is unlawful or in contravention of any license, code of practice, instructions or guidelines issued by an Authority, third party's rights or any applicable acceptable use policy, including but not limited to Supplier's Acceptable Use Policy posted at Supplier's website; or
- 4.2.2. to send, communicate, knowingly receive, upload, download or use any material or make any communications that are offensive, abusive, indecent, defamatory, obscene, menacing, cause annoyance, inconvenience, needless anxiety or are intended to deceive, for high-volume auto-dialing or telemarketing or extensive call forwarding, or that do not comply with Applicable Laws regarding unsolicited or unwanted communications or telemarketing, including without limitation, the Telephone Consumer Protection Act (TCPA), the FTC's Telemarketing Sales Rule, or any similar federal, state, or local laws and regulations; or
- 4.2.3. in any way Supplier reasonably considers is or is likely to be detrimental to the provision of the Services to the Customer or service to any of Supplier's other customers.

4.3. The Customer shall comply with Supplier's reasonable instructions regarding security or safety of the Services.

Security

- 4.4. The Customer is responsible for the proper use of the User Security Details, if any, and must take all necessary steps to ensure they are kept confidential, secure and not made available to unauthorized persons in accordance with the Supplier's Password Policy, (a copy of which is available at Supplier's website).
- 4.5. Customer is solely responsible for engaging in best practices to assure that only authorized Users have access to the Services, such as securing its systems with rigorous password protections.
- 4.6. If the Customer believes that any User Security Details are or are likely to be used in an unauthorized way, the Customer must inform Supplier immediately. The Customer must not change or attempt to change a User name without Supplier's prior agreement.
- 4.7. Supplier does not guarantee the security of the Services against unauthorized or unlawful access or use. If Supplier believes there is or is likely to be a breach of security or misuse of the Services, Supplier may:
 - 4.7.1. Change and/or suspend the User Security Details (and notify the Customer that it has done this); or
 - 4.7.2. Require the Customer to change the User Security Details.

Operations

4.8. Occasionally Supplier may:

- 4.8.1. change the way Supplier provides the Services, provided that any change to the way Supplier provides the Services does not significantly, in the reasonable opinion of Supplier, affect the performance or functionality of the Services; or
- 4.8.2. interrupt or suspend all or part of the Services, without prior notice:
 - 4.8.2.1. to comply with an order, instruction or request of any Authority;
 - 4.8.2.2. if the ability of Supplier and/or a Third Party to connect to any Customer Equipment, or any third party services, network or software is withdrawn or compromised or suspended for any reason;
 - 4.8.2.3. where it reasonably believes the Customer is in breach of clause 4.2 and/or clause 4.3;
 - 4.8.2.4. if Supplier has a right to terminate this Contract in accordance with clause 9;
 - 4.8.2.5. where a Third Party suspends, limits or interrupts the Services (in whole or in part) as a result of the acts or omissions of the Customer;
 - 4.8.2.6. as otherwise set out in any relevant Service Schedule;
 - 4.8.2.7. following, where reasonably practicable, prior notice to make any change, modification, enhancement, replacement of or additions to any Services in accordance with clause 8;
 - 4.8.2.8. where Supplier, or a Third Party, in its sole opinion, suspects fraudulent telephone activity; and
 - 4.8.2.9. following, where reasonably practicable, prior notice, to undertake planned or emergency maintenance or testing.

4.9. In the event that Supplier interrupts or suspends all or part of the Services in accordance with clause 4.8.2, Supplier shall use reasonable endeavors to restore the Services as soon as reasonably practicable once the issue that caused such interruption or suspension has been resolved.

- 4.10. Any period during which the Services are suspended, interrupted or limited in accordance with clauses 4.7.1, 4.8.2 and 9.6 shall not be taken into account in the calculation of any Services compliance with any applicable Service Level Agreement and the Customer shall remain liable for all Charges during this period.
- 4.11. Supplier shall be entitled, by giving the Customer such advance notice as is reasonably practicable, to change, modify, enhance, replace or make additions to any of the Services to accommodate:
- 4.11.1. Changes that are mandatory, as a result of direction or communications from a Third Party and/or Authority;
 - 4.11.2. Upgrades and updates to the licenses and/or software that form part of the Services; and
 - 4.11.3. Any other changes made to the Service Catalogue that Supplier believes in its absolute discretion are reasonable to ensure the Services remain up to date, reliable, secure and suitable for use for its customers.

Third Party Conditions

- 4.12. Supplier may, with the prior knowledge of the Customer, utilize a Third Party to deliver elements of the Service. Such Third Parties typically have end user conditions including, but not limited to, Flow Down Terms and Licensed User Agreements as set out in the applicable Order Form, that will apply to the Customer and as such are incorporated within and may take precedence over this Contract ("**Third Party Conditions**"). The Customer and/or User shall accept the Third Party Conditions prior to the Services being activated and such acceptance of the Third Party Conditions is a condition of such Services being provided.
- 4.13. Customer acknowledges and agrees that VoIP Service may not be compatible with certain alarm and security systems, medical monitoring devices, fax machines, and dial-up modems and paging systems. Customer's attempt to use any such systems in connection with the Service is solely at its own risk and Supplier shall not be liable for any damages whatsoever for any non-operation or damage to such services or devices.
- 4.14. Customer agrees that Supplier shall have the option in its sole discretion, but no obligation, to list or cause to be listed the telephone numbers assigned to Customer in any directories. To the extent such numbers are listed, Customer agrees that Supplier has and shall have no liability for any errors or omissions in such listings.

5. CUSTOMER OBLIGATIONS

- 5.1. The Customer shall:
- 5.1.1. ensure it has suitable licenses in place for any Third Party software required (which is not procured or provided by the Supplier) to allow the Supplier and its subcontractors to provide the Services;
 - 5.1.2. co-operate with Supplier in the provision of the Services;
 - 5.1.3. provide, in a timely manner, access to such information, data, premises, personnel, office accommodation and other facilities as Supplier may reasonably require for the performance of the Services;
 - 5.1.4. allow Supplier the use of the Customer Equipment to the extent necessary to enable it to provide the Services;
 - 5.1.5. ensure the Customer Equipment and IT system is Virus free;
 - 5.1.6. ensure that it has access to a fast and resilient internet service;
 - 5.1.7. be responsible (at its own cost and expense, unless otherwise agreed) for preparing the Site(s) for the supply of the Services;
 - 5.1.8. promptly notify Supplier in writing of any changes to the number of Users or to the Customer System, any such change to be made pursuant to this Contract;
 - 5.1.9. ensure that payment on all manufacturing warranties relating to the Customer Equipment (and each element thereof) is up to date;
 - 5.1.10. ensure the operability of its Customer Equipment in line with industry standards and vendor original equipment manufacturer (OEM) guidelines;
 - 5.1.11. where a Microsoft Cloud service is deployed / utilized within the Services (Azure, Enterprise Mobility Suite or Office365) Supplier will be assigned to the cloud subscription(s) as the Claiming Partner of Record and Digital Partner of Record (as defined by Microsoft) for a minimum of twelve (12) months from advanced completion date;
 - 5.1.12. maintain and allow Supplier continuous global admin access to the Customer's relevant Microsoft cloud services portals for the duration of this Contract, where this is required by the Supplier to deliver the Services; and
 - 5.1.13. shall comply with the terms of any Third Party Conditions (if applicable);
 - 5.1.14. comply with all Applicable Laws in connection with the use of the Services (including requirements applicable to the operation of multiline telephone systems) and ensure that all end users of the Services comply with Applicable Laws and the terms of this Agreement;
 - 5.1.15. implement rigorous fraud prevention and detection risk mitigation controls and the Customer accepts full liability and shall hold the Supplier harmless for any misuse or fraudulent use and/or purchases of Services. Accordingly, the Customer is liable and shall hold the Supplier harmless for all payments of all costs incurred relating to any Fraud or Fraudulent use of any of the Services and/or systems (including Customer's systems) provided under this Contract; and
 - 5.1.16. where necessary, support Supplier with escalations and resolution of incidents in accordance with Third Party service levels detailed in the relevant Appendix (where applicable).
- 5.2. In the event that Supplier requires the decision, approval, consent or any other communication from the Customer in order to continue with the provision of the Services or any part thereof at any time, the Customer shall provide the same in a reasonable and timely manner.

- 5.3. If any consents, licenses or other permissions are needed from any third parties (such as, without limitation, software or hardware licensors, landlords, local authorities) to enable Supplier to provide the Services, it shall be the Customer's responsibility to obtain the same in advance of the Services Start Date and for the Term.
 - 5.4. The Customer acknowledges that Supplier's provision of the Services in accordance with this Contract is subject to the Customer's fulfilment of its obligations under this Contract. Supplier shall not be in breach of this Contract and shall not be liable for any failure to deliver the Services or perform its obligations under this Contract to the extent that such failure is caused by the Customer's (or a third party, on behalf of the Customer's) failure to fulfil any of its obligations under this Contract, provided that Supplier:
 - 5.4.1. has notified the Customer of such failure or anticipated failure and its likely effect on the provision of the Services and/or on the ability of Supplier to perform its obligations under this Contract; and
 - 5.4.2. used reasonable endeavors to mitigate the effect of such failure or anticipated failure and, where possible, to continue to perform its affected obligations.
 - 5.5. The Customer recognizes that Malware may enter Services or the Customer's information technology environment notwithstanding the Supplier's compliance with this Contract and if such entry does occur notwithstanding such compliance is not due to the Supplier's deliberate act or negligence then such entry shall not constitute a breach of this clause 5.3. For the avoidance of doubt, the Customer network may become infected from a Virus from various sources which even fully operable and up to date anti-virus definitions cannot avoid. In the event of a Virus, worm, trojan, Cryptolocker event or other form of malware ("**Malware**"), the removal of the Malware (including any ransom payable) shall be paid by the Customer inclusive of the time spent by the Supplier in addressing and removing any Malware except in the event the Supplier's negligence, in which case the time costs associated with the removal shall be borne by the Supplier excluding any ransom payable). If the Customer has failed to follow the Supplier's reasonable recommendations or to ensure appropriate cyber security education, training and procedures are not implemented, then the Supplier shall not be in anyway liable to the Customer for any related costs arising therefrom.
 - 5.6. The Customer agrees and acknowledges the terms of the applicable Third Party Conditions and Customer Agreement and that such terms shall form part of this Contract. For the avoidance of doubt, in the event the applicable Third Party Conditions and/or Customer Agreement is not applicable to the Services being received or delivered by Supplier to the Customer under this Agreement, such agreements shall not apply.
- Prevention of corruption and anti-bribery and anti-human trafficking**
- 5.7. Each Party confirms that at the date of the Contract and to best of its knowledge it nor any of its officers, employees:
 - 5.7.1. Has been convicted of any offence involving slavery and human trafficking; and
 - 5.7.2. Has been or is the subject of any enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.
 - 5.8. Each Party shall comply with all Applicable Laws relating to (i) anti-bribery and anti-corruption, (ii) anti-slavery and anti-human trafficking; (iii) Sanctions; (iv) equality laws; and (v) competition laws.
- 6. CHARGES AND PAYMENTS**
- General**
- 6.1. Charges for the Services are as detailed on the Order Form and calculated using the details provided by the Supplier. Some Charges may be subject to survey and additional Charges which can only be determined, and subsequently agreed with the Customer prior to the Services Start Date, may apply. Other charges that may apply are set out in the relevant Contract documents.
 - 6.2. If not specifically itemized and costed separately on the Order Form, any Usage or non-recurring Charges (excluding inclusive Usage Charges) that are incurred by the Customer whilst utilizing the Services, will be chargeable at the Charge communicated by the Supplier at the time or at the standard Supplier then current rate card (available on request), or as set out on the Order Form, as applicable.
 - 6.3. The Initial Charge detailed on the Order Form is payable to Supplier on receipt of the Initial Charge invoice which will be issued promptly to the Customer following the Effective Date and is in addition to any other charge and is not refundable.
 - 6.4. The Customer is responsible for and must pay for all Charges attributable to or incurred through the Services, including but not limited to Usage Charges and those arising from Fraud or Fraudulent use or unauthorized use of the Services, whether the Services is used by the Customer or someone else with or without the permission of the Customer.
 - 6.5. Supplier shall send the invoices via email to the email address notified by the Customer to Supplier. Unless otherwise stated on the Order Form, Supplier shall, following the issue of the Initial Charge invoice, send its next invoice normally within fourteen (14) days of the Effective Date and then at monthly intervals thereafter. Sometimes Supplier may send the Customer an invoice at a different time.
 - 6.6. The Customer shall be liable for Charges for the Services from the Services Start Date, unless otherwise stated in the Order Form. Time for payment for amounts due under this Contract shall be of the essence. The Customer shall pay Charges and all other amounts due in full on the due date in cleared funds without set off, deduction, withholding and/or counterclaim on any grounds whatsoever.
 - 6.7. Unless otherwise stated in the Order Form the Customer agrees to pay monthly:
 - 6.7.1. in advance for subscription, rental, and other recurring charges (including inclusive Usage Charges); and
 - 6.7.2. in arrears for Usage (excluding inclusive Usage Charges), connection and any other non-recurring charges. Where possible these charges will appear on the Customer's next invoice but sometimes there may be a delay.
 - 6.8. All Charges are exclusive of any applicable Tax which is chargeable at the applicable rate.
 - 6.9. As part of its credit management procedures, Supplier may at any time:
 - 6.9.1. carry out a credit check of the Customer. The Customer agrees to provide Supplier with any information Supplier may reasonably require for this; and require the Customer to pay a deposit or provide a guarantee as security for payment of future invoices by the means requested by Supplier; and/or
 - 6.9.2. require the Customer to agree a payment plan determined by Supplier that in Supplier's sole opinion will cover their estimate of the Customers monthly charges for utilizing the Services.

- 6.10. Payment is due fourteen (14) days from the date of the invoice unless otherwise stated on the Order Form and any credits raised by Supplier shall be applied directly to the Customer's account.
- 6.11. Unless agreed otherwise in an Order Form, the Customer must pay all charges by ACH.
- 6.12. Payments made other than by ACH will be collected by Supplier but Supplier may apply an additional five percent (5%) payment processing fee onto a subsequent invoice.
- 6.13. Where Supplier has subscribed to a standard Supplier pricing package or scheme, the Customer agrees that the charges specified in the Service Catalogue may be amended by the terms of the pricing package or scheme. Upon termination of the pricing package or scheme, the charges will revert to those specified in the Service Catalogue.
- 6.14. Supplier shall invoice the Customer for the Services as detailed on the Order Form once they are made available for the Customer use. This may include a non-refundable deposit or advance/pre-payment if detailed on the Order Form.
- 6.15. Irrespective of whether the Customer terminates this Contract early under clause 9, the Customer shall remain responsible for repaying all amounts due under the Contract.
- 6.16. When applicable, Supplier shall be entitled to increase the Charges to accommodate the greater of increased Third Party and Supplier operational costs or in line with the percentage increase in the U.S. Bureau of Labor Statistics Consumer Price Index in the preceding twelve (12) month period and such increase shall be applied on or after each anniversary of the Services Start Date.

Disputed Invoices

- 6.17. If the Customer disputes any charge on an invoice the Customer must notify Supplier in writing within fourteen (14) days of the date of the invoice stating the reason or reasons why it believes the invoice to be incorrect.
- 6.18. Supplier shall attempt to resolve any disputes promptly and in the meantime the Customer must not withhold any payment unless such withholding has been agreed to in writing by Supplier.
- 6.19. Upon resolution of the dispute, the Customer shall pay any remaining amount that is properly due and owing under the invoice, and if the original invoice was shown to be correct, the Customer shall be subject to the additional charges in accordance with clause 6.1.
- 6.20. Any dispute received by Supplier after the fourteen (14) day period has elapsed will be processed at Supplier's sole discretion.

Late Payment

- 6.21. If the Customer defaults in paying any sum due under the Contract by the due date for payment, Supplier may charge the Customer:
 - 6.21.1. a late payment charge of \$100, to reflect the legal and administration costs associated with Supplier recovering the late payment; and/or
 - 6.21.2. interest as of the day after the date such payment was due and payable and shall continue to accrue such interest until such payment is made at a rate equal to the lesser of either (a) 4% per month on any amount not paid, as of the date such payment was due and payable, or (b) the maximum rate permitted by Applicable Laws).
- 6.22. If the Customer does not pay an invoice, Supplier may instruct a debt collection agency to collect payment (including any interest and/or late payment charges) on its behalf. If Supplier instructs an agency, the Customer shall be liable for the reasonable costs Supplier has to pay to the agency, who will add the sum to the Customer's outstanding debt on Supplier's behalf.
- 6.23. If any sum owed by the Customer to Supplier under the Contract or any contract with Supplier is not paid by the due date, Supplier may deduct this sum from any payment or credit due to the Customer under the Contract or any other contract with Supplier.
- 6.24. Additionally, if any Charge(s) owed by the Customer to Supplier under the Contract or any contract with Supplier is not paid by the due date, Supplier may suspend the Services by giving twenty-four (24) hours' notice in writing. Only when all outstanding payments have been paid to Supplier would the Services be recommenced. The Customer shall continue to pay the Charges during any period of suspension.

Fraud Prevention

- 6.25. Supplier may check the Customer's details with a fraud prevention agency. If the Customer provides information that Supplier reasonably believes to be false or incorrect and Supplier suspects fraud, Supplier may record this information with a fraud prevention agency. Supplier and other organizations may use and search this information.
- 6.26. If the Services permit or require passwords and usernames to access the Services or control the Services, it is the responsibility of the Customer to manage this security. Supplier shall not be responsible for any security breaches in this regard nor shall it be liable for any costs that result from such a security breach.

7. REPRESENTATIONS AND WARRANTIES

- 7.1. The Customer agrees that use of the Services is at the Customer's sole risk.
- 7.2. The Supplier warrants to the Customer that the Services will, during the term of this Contract, materially conform to the description of the Services as set out in the Service Schedule.
- 7.3. The Customer's sole and exclusive remedy, and the Supplier's sole and exclusive liability, for a breach of the limited warranties set forth in this clause 7 is that, upon written notice to the Supplier by the Customer, the Supplier will use reasonable endeavors to remedy the Services to materially conform with the limited warranty in clause 7.2.
- 7.4. **SAVE AS EXPRESSLY SET OUT IN THE CONTRACT, NEITHER PARTY GIVES ANY REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OF OPERATION OF APPLICABLE LAWS) OR STATUTORY, AS TO ANY MATTER WHATSOEVER. THE**

SUPPLIER EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE, QUALITY, ACCURACY AND TITLE.

- 7.5. The Supplier does not warrant that the Services will be error free or that the operation of will be secure or uninterrupted.
- 7.6. The Customer will not have the right to make or pass on any representation or warranty on behalf of the Supplier to any Customer client or Third Party.
- 7.7. The Customer warrants and represents that (except in relation to third party hardware, software or services procured by Supplier for or on behalf of the Customer in accordance with the Contract):
 - 7.7.1. It holds valid licenses and consents from for all Third Parties to make available and permit Supplier to use the Customer Equipment, including any goods, services or software which are sub-licensed by a Third Party to the Customer for use with the Customer Equipment, for the purposes of enabling Supplier (and any sub-contractors) to carry out the Services pursuant to the Contract and that such use shall not infringe any Third Party IPR;
 - 7.7.2. It has all the relevant and necessary end user licensing in place where it is required to access Supplier's infrastructure and/or utilize any software;
 - 7.7.3. The Customer shall immediately notify Supplier if it becomes aware of any failure by the Customer to meet its obligations of this clause 7 and the Customer shall provide Supplier with all assistance reasonably requested to assist in taking all steps to mitigate, remedy or defend any failure to meet the obligations set out in this clause 7.7.
- 7.8. Each party represents, warrants and undertakes that:
 - 7.8.1. it has full capacity and authority and all necessary consents to enter into and to perform this Contract and to grant the rights and licenses referred to in this Contract and that this Contract is executed by its duly authorized representative and represents a binding commitment on it;
 - 7.8.2. without affecting its other obligations under this Contract, it shall comply with all applicable legislation in the performance of its obligations under this Contract.
- 7.9. Supplier warrants and represents to the Customer that:
 - 7.9.1. the provision of the Services by or on behalf of Supplier does not and shall not infringe any IPR of any third party;
 - 7.9.2. Supplier has all rights and permissions necessary to assign:
 - 7.9.2.1. the Developed Materials (and any Third Party IPR therein) to the Customer in accordance with clause 12.2 and use of the Developed Materials (and any Third Party IPR therein) in accordance with the Contract shall not infringe any Third Party IPR; and
 - 7.9.2.2. the Supplier IPR to the Customer in accordance with clause 13.2 and use of the Supplier IPR in accordance with the Contract shall not infringe any Third Party IPR.
- 7.10. In respect of the Services, the Customer agrees that its primary remedies in respect of any non-conformance with any warranty in this Contract are set out in this clause 7.
- 7.11. The Customer must promptly notify the Supplier of any non-conformance to the above warranties in order to benefit from the remedies stated above and in any event within fourteen (14) days after delivery of any Services.
- 8. CHANGE CONTROL PROCEDURES**
 - 8.1. Supplier shall be entitled to change the Contract at any time to comply with Applicable Laws or the direction or instructions of any Authority or Third Party, or to reflect changes within the Supplier business that were not foreseen at the time the Contract was signed and will publish any change in line with clause 8.2.
 - 8.2. Unless otherwise stated in the Contract, Supplier shall publish any changes to the Order Form and/or Contract (including the Charges) on the Customer invoice or in accordance with clause 17.17 as follows:
 - 8.2.1. For changes that are to the Customer's detriment (this includes any increases to the Charges or changes that require the Customer to make any changes to how the Services are used), at least fourteen (14) days before the change is to take effect; and
 - 8.2.2. For all other changes at least one (1) day before the change is to take effect.
- 8.3. Any revised Conditions that are issued and agreed as variations or additions to the original Contract shall automatically apply to the original Contract.
- 8.4. Either Party may request changes to any of the Services under the Contract (in each case, a **"Change Request"**). Any Change Request shall be made in writing and sent to the Customer representative or Supplier representative (as appropriate) and shall set out the change in sufficient detail so as to enable the other Party to make a proper assessment of such change.
- 8.5. Where the Parties propose a Change Request, Supplier shall provide a written estimate of the likely time required to implement the change, any necessary variations to the Charges as a result of the change, the likely effect of the change on the Services, and any other impact of the change on the terms of this Contract. The Customer shall notify Supplier whether it accepts or reasonably rejects the Change Request within five (5) Business Days of its receipt of the written estimate.
- 8.6. A Change Request shall become a **"Change Order"** when the Change Order form has been signed by a duly authorized representative of both Parties to signify their approval to the change. Until such time the Parties shall continue to perform their respective obligations under the Contract without taking into account the Change Request. Once duly signed, Change Orders shall be deemed incorporated into Contract and Supplier shall commence performance of the Change Order accordingly.

- 8.7. Neither Party shall be required to accept any Change Request made by the other Party and shall not be bound by the Change Request unless it has been agreed in writing as set out above.
- 8.8. Unless otherwise agreed in writing, Supplier shall be entitled to charge the Customer at Supplier's then current rates for investigating, reporting on and, if appropriate, implementing a Change Request requested by the Customer.
- 8.9. The Supplier shall use its reasonable endeavors to promptly notify the Customer of any changes in Applicable Laws relevant to the provision, receipt or use of the Services (other than a change in Applicable Law which relates uniquely and specifically to the Customer in respect of which each Party shall promptly notify the other upon becoming aware of the same). Following the Supplier becoming aware of any change in Applicable Law, the Supplier shall notify the Customer of any changes to the Services (or any part thereof) that may be necessary to ensure that the provision of the Services and their receipt and use by the Customer continues to comply with Applicable Law (each a "**Mandatory Change**"). Each Mandatory Change shall be introduced by the Supplier and progressed by the Parties through the Change Control Procedure. The Customer shall pay the costs and expenses of a Mandatory Change (including the costs and expenses of implementing that Change and any ongoing costs and expenses in respect of that Change) to the extent the relevant change in Applicable Law relates uniquely and specifically to the Customer by the Supplier. To the extent to which clause 8 does not apply to the relevant change in Applicable Law, Supplier shall consult with the Customer on the manner, form and timing of changes it proposes to make to meet any changes in Applicable Laws where they would impact the Services. The Supplier shall not implement any change, without the Customer's prior written agreement, which would have an adverse effect on the Supplier's ability to provide the Services in accordance with the Contract. Any change which impacts any of the Services shall be agreed and documented in accordance with this clause 8. Without prejudice to the rest of this clause 8, the Supplier shall use all reasonable endeavors to minimize any disruption caused by any changes in Applicable Laws introduced pursuant to this clause.

9. TERMINATION

- 9.1. In the event the Customer cancels the Contract or the Services at any time prior to a Services Start Date, an Early Cancellation Charge may apply on the following basis:

- 9.1.1. In the event the cancellation is received within seven (7) days from the Effective Date and before the Services Start Date there will be no Early Cancellation Charge payable by the Customer.
- 9.1.2. In the event the cancellation is received after seven (7) days the Customer shall pay Supplier, as a reflection of the costs it incurred in setting up the Services a sum equal to the total Initial Services Charge (as set out on the Order Form) that the Customer would have paid to set up the Services, less a discount of 10%.

(Collectively the "**Early Cancellation Charge**").

- 9.2. Once the Services Start Date has occurred, for all or part of the Services, the Contract or the Services may be terminated by either Party on not less than ninety (90) days written notice to the other Party, for whatever reason, however an Early Termination Charge may apply in accordance with clause 9.3.

- 9.3. Subject to clause 9.4, if the Customer or Supplier terminates the Contract or the Services or any part of the Services during the Minimum Contract Term and/or Renewal Term, the Customer shall pay Supplier:

- 9.3.1. all outstanding Charges, which shall include all unpaid invoices and any Charges for Services that have not been invoiced up to the date of the termination; plus
- 9.3.2. a sum equal to all the remaining Monthly Services Charges that the Customer would have paid had the Contract continued for the Term, less a discount of 10% (ten percent) of such remaining Monthly Services Charges.

(Collectively, the "**Early Termination Charge**")

- 9.4. This Early Termination Charge will be invoiced in accordance with clause 6. Without prejudice to clause 9.4, clause 9.3 will not apply if:

- 9.4.1. the Customer terminates the Contract or Services or any part of the Services during the during the Minimum Contract Term and/or Renewal Term because Supplier is in material breach of this Contract and Supplier acknowledges that such material breach cannot be rectified; or
- 9.4.2. the Customer gives notice to terminate the Contract within one (1) month of Supplier notifying the Customer of a major (over 30%) increase to the Charges or major (as defined by Supplier) changes to the Conditions or Services in either case to the Customer's significant detriment; or
- 9.4.3. Supplier terminates the Contract or the Services during the during the Minimum Contract Term and/or Renewal Term for convenience; or
- 9.4.4. the Contract is terminated in accordance with clause 9.5 or 17.3.

- 9.5. The Customer may terminate this Contract by way of notice in writing if:

- 9.5.1. Supplier materially breaches the Contract and, if the breach is capable of remedy, fails to cure the breach within thirty (30) days of being asked by the Customer to do so; or
- 9.5.2. insolvency proceedings are brought against Supplier or Supplier makes an arrangement with its creditors or a receiver, an administrative receiver or an administrator is appointed over any of Supplier's assets or Supplier goes into liquidation or a corresponding event under any jurisdiction.

- 9.6. Supplier may suspend the Services or terminate the Contract, or both, at any time without notice and, if the Contract is terminated, apply the Early Termination Charge to include payment of the amounts referred to in clause 9.3, if:

- 9.6.1. the Customer breaches the Contract or any other contract that the Customer has with Supplier and, if the breach is capable of remedy, fails to cure the breach within a reasonable time (not exceeding thirty (30) days) of being asked by Supplier to do so. In this clause breach includes the Customer planning to or commencing to move the all or part of the Services to an alternative supplier prior to the end of the Term without providing Supplier any notice of the change; or
- 9.6.2. Supplier reasonably believes that the Services are being used in a way not in accordance with and/or forbidden by clauses 4.1 to 4.2.3 or as detailed in clause 4.8.2. This applies even if the Customer is unaware that the Services are being used in such a way; or
- 9.6.2.1. the Customer is declared bankrupt, files for bankruptcy protection, make an assignment for the benefit of creditors or is in receivership; or

- 9.6.2.2. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
- 9.6.2.3. the Customer ceases, or threatens to cease, to carry on business; or gives notice of their intention to migrate all or part of the Services, or

9.6.3. Supplier reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.

10. TERMINATION CONSEQUENCES

10.1. Termination of this Contract, for any reason, shall not affect the accrued rights, remedies, obligations or liabilities of the Parties existing at termination.

10.2. On termination of this Contract for any reason:

10.2.1. Supplier shall immediately cease provision of the Services;

10.2.2. all Charges payable by the Customer to Supplier under this Contract shall become due immediately despite any other provision of the Contract. Additionally, in the event the Charges identifies the Services are to be provided for a minimum term and the Customer Order Form confirms this and termination takes place before the minimum term has expired then the remaining fees applicable to the end of the applicable minimum term shall be payable by the Customer; and

10.2.3. the Customer shall within thirty (30) days send to the Supplier or otherwise dispose of in accordance with the directions of the Supplier copies of all Documentation and all Confidential Information relating to the Services then in the possession of the Customer;

10.2.4. all the Customer data, including but not limited to databases, contacts, calendars, email, content, recordings etc., will be irrevocably deleted by the Supplier within thirty (30) days of termination, unless such records are legally required to be retained by the Customer, in which case the Customer shall notify the Supplier and the Supplier shall secure all necessary data prior to termination. The Supplier will not be responsible for any loss of data or any damages resulting from the deletion of this data following the termination of the Services;

10.2.5. clauses that are necessary for the enforcement or interpretation of this Contract shall survive, which shall include, but not be limited to, clauses relating to termination, payments, warranty, confidentiality, solicitation, indemnification, retention of title and protection of Intellectual Property Rights;

10.2.6. in the event that any money is owed by Supplier to the Customer, Supplier shall refund any money after first deducting any money due to Supplier under this Contract or any other contract that Supplier has with the Customer;

10.2.7. subject as otherwise provided in this Contract and to any rights or obligations which have accrued prior to termination, neither party shall have any further obligation to the other under this Contract;

10.3. Where individual Order Forms are terminated in isolation to the main Contract, clauses 10.2.1, 10.2.2, 10.2.3, 10.2.4, 10.2.5 and 10.2.6 shall apply.

10.4. Termination or expiration of this Contract shall be without prejudice to any provision which expressly or by implication is intended to survive termination or expiration.

10.5. In addition to the Charges payable under clause 10.2.2, Supplier reserves the right to invoice the Customer for any additional costs and expenses incurred as a consequence of termination of this Contract, including, without limitation:

- 10.5.1. all engineering and administrative duties associated with Termination Assistance Services as set out in clause 10.6 below, including removing or transferring services and/or stored Customer data.

Where such services are provided by Supplier this shall be charged at Supplier's then current rate card (available on request), or if provided by a Third Party, any related charges shall be invoiced by Supplier to the Customer in accordance with Third Party's charges plus 20% and such additional costs and expenses shall be payable by the Customer within seven (7) days from receipt of the invoice.

10.6. Upon termination of this Contract for any reason Supplier will provide to the Customer and/or to any new supplier selected by the Customer (the "Successor Service Provider") such assistance as reasonably requested by the Customer in order to effect the orderly transition of the applicable Services, in whole or in part, to the Customer or to Successor Service Provider (such assistance shall be known as the "Termination Assistance Services") during any period of notice of termination (the "Termination Assistance Period"). Any services required by the Customer for the transition of Services during the Termination Assistance Period shall be provided by Supplier in accordance with its then current rate card (available on request) for such period of time as shall be mutually agreed. Such Termination Assistance Services may include:

10.6.1. developing a plan for the orderly transition of the terminated Services from Supplier to the Customer or the Successor Service Provider; and

10.6.2. such other activities upon which the Parties may agree including any non-proprietary documents to enable a Successor Service Provider to continue to provide services.

11. LIMITATION OF LIABILITY

11.1. IN NO EVENT WILL SUPPLIER OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS CONTRACT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION, OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION, OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL OR REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

- 11.2. **IN NO EVENT WILL THE AGGREGATE LIABILITY OF SUPPLIER AND ITS LICENSORS, SERVICE PROVIDERS, AND SUPPLIERS ARISING OUT OF OR RELATED TO THIS CONTRACT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO SUPPLIER UNDER THIS CONTRACT IN THE TWELVE MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.**
- 11.3. Notwithstanding clause 11.2, Supplier's maximum liability for any failure or unavailability of Services shall be as set forth in the applicable Service Level Agreement (SLA), if any, or if no SLA applies, a refund of any Charges paid by Customer for a Services not received.
- 11.4. Except as provided in clauses 11.2 and 11.3, Supplier shall not have any liability to Customer or Users for any harm or damages arising from the use or attempted use of the Services, and equipment and services provided by third parties including internet services.
- 12. INTELLECTUAL PROPERTY AND CONFIDENTIALITY**
- Intellectual Property**
- Pre-Existing IPR**
- 12.1. Except as otherwise expressly set out in the Contract, neither party (nor any sub-contractor) shall receive any right, title or interest in respect of the IPR owned or controlled by the other party as at the date of the Contract ("**Pre-Existing IPR**").
- Developed Materials**
- 12.2. Subject to payment of Charges and excluding Supplier IPR and Third Party Materials (as defined below), the Customer shall own and retain all rights, title and interest in and to the Developed Materials that are identified as Developed Materials under a schedule (or Service Schedule) agreed between the Parties in writing.
- 12.3. Subject to payment of Charges, Supplier grants to the Customer a non-exclusive, worldwide license for the duration of the Term to use Supplier's IPR and Third Party Materials for its own internal purposes to the extent that the Supplier's IPR and Third Party Materials are in, or are required in order to make such use of, the Developed Materials and solely in connection with the Customer's use of the Developed Materials. Customer shall have no right to sub-license Supplier's IPR and Third Party Materials to any party without the prior written approval of Supplier and if such approval is granted, Customer shall be responsible for such party's compliance with the license terms of this Contract.
- 12.4. Except with respect to Supplier IPR and Third Party Materials, to the extent that any IPR in the Developed Materials do not automatically vest in the Customer, Supplier hereby assigns (and shall use reasonable efforts to procure that its employees, agents and sub-contractors assign), all right, title and interest that Supplier has in the Developed Materials, at the Customer's cost and shall require that its sub-contractors do the same. Supplier shall (and shall require its sub-contractors to) execute all documents and take all actions reasonably necessary to perfect or assign its rights in the Developed Materials, at the Customer's cost.
- 12.5. Supplier will not use any equipment, supplies, facilities, computer code, work product, inventions or materials of any other third party ("**Third Party Materials**") in any Developed Materials unless Supplier has the right and authority to do so without violating the rights of such third party:
- 12.6. Supplier shall procure Third Party Materials required by the Customer for the provision of the Services, provided however such Third Party Materials come with no warranty and are as-is, and Supplier expressly disclaims any liability to the Customer with respect to the Third Party Materials supplied or licensed under this Contract. Supplier does not warrant that the Third Party Materials will operate substantially in accordance with, and perform, the material functions and features as set out in any marketing, sales or other associated documentations.
- Confidentiality**
- 12.7. Each Party (the "**Receiving Party**"), except as authorized in writing by the other Party, shall, during the Term of this Contract and for two (2) years after its termination or expiration:
- 12.7.1. not use the Confidential Information of the other Party (the "**Disclosing Party**") for any purpose other than the performance of its obligations under the Contract;
- 12.7.2. not, without prior written consent of the Disclosing Party, directly or indirectly communicate or disclose (whether in writing or orally or in any other manner) Confidential Information of the Disclosing Party to any other person;
- 12.7.3. protect the Confidential Information of the Disclosing Party with at least the same security measures and degree of care that the Party would apply to its own Confidential Information;
- 12.7.4. limit access to its Affiliates, directors, officers, employees, agents or professional advisers and, in the case of Supplier, to its sub-contractors, on a need to know basis and will require that such recipients to whom Confidential Information is disclosed complies with the restrictions set out in this clause 12.7 to the same extent that such person were a Party to the Contract.
- 12.8. Notwithstanding clause 12.7, either Party may disclose the other's Confidential Information to the extent required by Applicable Laws or by any Authority.
- 12.9. Neither Party shall without prior written consent of the other, make any announcements concerning the Contract or its subject matter to any third party, except that Supplier may:
- 12.9.1. name the Customer as a client for marketing purposes; and
- 12.9.2. subject to the prior written consent of the Customer (such consent not to be unreasonably withheld or delayed) issue a press release on the entering into of the Contract announcing the entering into of this Contract (but not the commercial terms of the same).
- 12.10. Notwithstanding the expiration or early termination of the Contract, the provisions of clause 12.7 shall continue to apply to each Party for a period of three (3) years after the termination of this Contract for any reason.
- 12.11. In the event of the expiration or termination of the Contract, within thirty (30) days of such expiration or termination each Party shall upon written request return to the other Party (or, at the other Party's election, destroy) all Confidential Information, or where Confidential Information cannot be so returned or destroyed, shall use reasonable efforts to ensure that all Confidential Information in electronic, digital or machine readable form is no longer readily accessible from any computer or other device under the control of that Party.

12.12. Information Supplier holds about the Customer may be used for fraud prevention and credit check purposes and this may include Supplier sharing such information with third-party companies including other communication companies and third-party funders.

12.13. Where the Freedom of Information Act (FOIA) applies to the Customer and the Customer receives a request under the FOIA that includes any information held by the Customer that was provided by Supplier in connection with the Contract the Customer shall:

12.13.1. notify Supplier immediately of the request; and

12.13.2. give Supplier at least five (5) Business Days to respond to the FOIA request.

13. LICENSES

13.1. Supplier shall procure any Third Party Software required by the Customer for the provision of the Services. Except as expressly set out in the relevant Third Party Conditions, Supplier expressly excludes any warranty and liability to the Customer that the Third Party Software supplied or licensed under this Contract will operate substantially in accordance with, and perform, the material functions and features as set out in its marketing, sales or other associated documentations. The Customer shall remain liable for any and all payments owed to Supplier throughout this Contract and until the end of the respective license terms for such Third Party Software (the "**License Fees**").

13.2. In consideration of the License Fees paid by the Customer to the Supplier, receipt of which the Supplier hereby acknowledges, the Supplier grants to the Customer a non-exclusive, revocable, worldwide, non-transferable license for the Term to use the Third Party Software listed under Services section on Order Form.

13.3. In relation to scope of use, use of the Third Party Software:

13.3.1. shall be restricted to use of the Third Party Software in object code form for the purpose of processing the Customer's data for the normal business purposes of the Customer (which shall not include allowing the use of the Third Party Software by, or for the benefit of, any person other than an employee of the Customer); and

13.3.2. means loading the Third Party Software into temporary memory or permanent storage on the relevant computer, provided that installation on a network server for distribution to other computers is not "use" if the Third Party Software is licensed under this license for use on each computer to which the Third Party Software is distributed.

13.4. The Customer may not use the Third Party Software other than as specified in clause 13.3 without the prior written consent of the Supplier, and the Customer acknowledges that additional fees may be payable on any change of use approved by the Supplier.

13.5. Except as expressly stated in this section 13, the Customer shall not (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Third Party Software in whole or in part except to the extent that any reduction of the Third Party Software to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Third Party Software with the operation of other software or systems used by the Customer, unless the Supplier is prepared to carry out such action at a reasonable commercial fee or has provided the information necessary to achieve such integration within a reasonable period, and the Customer shall request the Supplier to carry out such action or to provide such information (and shall meet the Supplier's reasonable costs in providing that information) before undertaking any such reduction.

13.6. The Customer shall not use any such information provided by the Supplier or obtained by the Customer during any such reduction permitted under clause 13.5 to create any software whose expression is substantially similar to that of the Third Party Software nor use such information in any manner which would be restricted by any copyright subsisting in it.

13.7. The Customer acknowledges that it is responsible for ensuring that the Customer Equipment, and operating software for such Customer Equipment is compatible with the Third Party Software and Supplier gives no warranty in relation thereto unless agreed otherwise in writing between the Parties.

13.8. Except as expressly set forth in the relevant Third Party Conditions and subject to this Contract and to the fullest extent permitted by law, the Third Party Software is provided on an 'as is' basis, without warranty of any kind and Supplier expressly disclaims any and all warranties, whether express or implied, including (but not limited to) warranties of merchantability, title, fitness for a particular purpose and non-infringement. In particular, but without limitation, Supplier does not guarantee that the Third Party Software will:

13.8.1. be error free;

13.8.2. function without interruption; or

13.8.3. be of merchantable quality or fit for purpose.

14. INDEMNIFICATION

14.1. Customer shall defend, at the Customer's expense, and shall at all times keep the Supplier indemnified against any claim for loss, damage, costs, expenses, injury or death to the Supplier and/or third parties howsoever arising (directly or indirectly) out of or in connection with the negligence, non-compliance with Applicable Law or the Contract or any Third Party Conditions; breach of duty of care; or any other act or omission of the Customer or any User in relation to the use or attempted use of the Services hereunder, including but not limited to any allegation that Supplier's use of any IPR owned by Customer and provided by Customer hereunder for the performance of the Services violates any rights of a third party.

14.2. The Supplier shall defend, at the Supplier's expense, any third party claim (the "**Claim**") brought against the Customer alleging that use of any Services under this Contract infringes any Third Party IPR. If in the Supplier's reasonable opinion, the Services become the subject of a Claim, then the Supplier shall either obtain for the Customer the right to continue using the Services, replace it, or, with the prior written consent of the Customer, modify it so it becomes non-infringing. If such remedies are not reasonably available (in the Supplier's sole opinion), then the Supplier shall grant the Customer a credit for any Services supplied, as normally depreciated, and accept its return.

14.3. The Supplier shall have no liability for any Claim resulting from (a) the combination of the Services with other services which were neither supplied nor combined with the Services by the Supplier, this includes any claims that have arisen from the modification or alteration to the Services by any party that is not the Supplier; (b) Services provided wholly or partly according to Customer's specifications; (c) Customer continues alleged infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; or (d) Customer's use of the Service not strictly in accordance with the Contract.

- 14.4. Subject to clause 14.1, the Supplier shall pay all costs and damages awarded or agreed to in settlement of a Claim PROVIDED THAT the Customer furnishes the Supplier with prompt written notice of the Claim and provides the Supplier with reasonable assistance and sole authority to defend or settle the Claim.
- 14.5. Any indemnity claim under the Contract shall be subject to the following:
- 14.5.1. in relation to any third party claims only, the indemnified Party shall notify the indemnifying Party as soon as reasonably practicable after becoming aware of any circumstances that are likely to give rise to an indemnity claim and shall keep the indemnifying Party informed as to the conduct of such claim;
 - 14.5.2. the indemnified Party shall take all reasonable steps to mitigate its losses arising in relation to the indemnity claim; and
 - 14.5.3. in relation to any third party claims only, the indemnified Party shall not settle any indemnity claim without the prior written consent of the indemnifying Party (such consent not to be unreasonably withheld or delayed).
- 14.6. The indemnifying Party shall not be liable under the indemnity to the extent that the claim results from the default or negligence of the indemnified Party.
- 14.7. **THIS SECTION 14 SETS FORTH CUSTOMER'S SOLE REMEDIES AND SUPPLIER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES AND SUPPLIER MATERIALS OR ANY SUBJECT MATTER OF THIS CONTRACT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.**
- 15. INSURANCE**
- 15.1. During the Term and for a period of two (2) years thereafter, the Customer shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability in a sum no less than \$1,000,000 per occurrence and \$2,000,000 in aggregate.
- 15.2. The Customer shall procure the insurer's agreement at Supplier request and shall provide to the Supplier with 30 days' advance written notice in the event of a cancellation or material change in the Customer's insurance policies. Except where prohibited by law, the Customer shall require its insurer to waive all rights of subrogation against Supplier and Supplier's insurers.
- 16. DATA PROCESSING**
- 16.1. Both Parties will comply with all applicable requirements of Applicable Data Privacy Laws and the DPA. The DPA is in addition to, and does not relieve, remove or replace, a Party's obligations or rights under the Applicable Data Privacy Laws.
- 17. GENERAL TERMS**
- Force Majeure**
- 17.1. If the Customer or Supplier is unable to perform, or is delayed in performing, any obligation under the Contract because of something beyond its reasonable control including act of God, lightning, flood, exceptionally severe weather, epidemics and/or pandemics, fire, explosion, war, civil disorder, industrial disputes, Viruses and malware, or acts or omissions of local or central government or other competent authorities, or beyond the reasonable control of its suppliers, Third Party's or other third parties ("**Force Majeure**"), it will have no liability to the other for that failure or delay in performing. However, the Customer remains liable at all times for all Charges due.
- 17.2. Supplier shall not be liable for failure to or delay in supplying the Services if:
- 17.2.1. another supplier delays or refuses the supply of an electronic communications service to Supplier and no alternative service is available at reasonable cost; or
 - 17.2.2. legal or regulatory restrictions are imposed that prevent Supplier from supplying the Services.
- 17.3. If any of the events detailed in clause 17.1 continue for more than three (3) months' the Customer or Supplier may terminate the Contract in whole or part by written notice to the other.
- Escalation and Dispute Resolution**
- 17.4. Supplier shall try to work through any dispute that the Customer may have with Supplier in accordance with the details set out in Supplier's relevant Service Level Agreement located on their website or available on request. If this does not resolve the dispute, then clause 17.5 applies.
- 17.5. If a dispute arises out of or in connection with this Contract for the performance, validity or enforceability of it ("**Dispute**") then the Parties shall follow the procedure set out in this clause 17.5:
- 17.5.1. either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("**Dispute Notice**"), together with relevant supporting documents. On service of the Dispute Notice, senior managers of the Parties shall meet and attempt in good faith to resolve the Dispute;
 - 17.5.2. if the senior managers of the Parties are for any reason unable to resolve the Dispute within fourteen (14) days of service of the Dispute Notice, the Dispute shall be referred to directors of the Parties who shall meet and attempt in good faith to resolve it; and
 - 17.5.3. if the directors of the Parties are for any reason unable to resolve the Dispute within twenty eight (28) days of it being referred to them then the Parties shall have no further obligation to follow this dispute resolution procedure.
- 17.6. Notwithstanding anything in this Contract, either Party may initiate any legal action (including issuing proceedings) at any time without first complying with the procedure set out in clause 17.5.
- Transfer of Rights and Obligations**
- 17.7. Supplier may assign, delegate, license, hold on trust or sub-contract all or any part of its rights or obligations under this Contract.
- 17.8. This Contract is personal to the Customer who may not assign, delegate, license, hold on trust or sub-contract all or any of its rights or obligations under this Contract without the prior written approval of Supplier, which shall not unreasonably be withheld provided that Customer has satisfied all obligations under the Contract prior to assignment and that the assignee agrees in writing to assume all obligations hereunder.

- 17.9. This Contract is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Contract.

Severability

- 17.10. If any term of the Contract is held invalid, illegal or unenforceable by any court of competent jurisdiction, it will be severed and the remaining terms will continue in full force as if the Contract had been made without the invalid, illegal or unenforceable terms.

Agency, Partnership

- 17.11. This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement.

Survival

- 17.12. Any provisions of this Contract which are expressed to and/or intended to survive any termination or expiration of this Contract (howsoever caused) shall survive any such termination and/or expiration of this Contract (howsoever caused).

Entire Agreement

- 17.13. The Contract contains the entire agreement between the Customer and Supplier and replaces all previous written or oral agreements relating to its content.

- 17.14. The Customer and Supplier agree that:

17.14.1. they have not been induced to enter into the Contract by, nor have they relied on, any statement, representation, warranty or other assurance not expressly incorporated; and

17.14.2. in connection with the Contract their only rights and remedies in relation to any statement, representation, warranty or other assurance are for breach of the Contract and that all other rights and remedies are excluded.

- 17.15. The terms of clauses 17.13 and 17.14 will not affect the rights or remedies of the Customer and Supplier for any fraudulent misrepresentation.

Waiver

- 17.16. A failure or delay by the Customer or Supplier to exercise any right or act upon a breach under the Contract will not be a waiver of that right or breach. If the Customer or Supplier waives a right or breach of the Contract, that waiver is limited to the particular right or breach.

Notices

- 17.17. Notices given under the Contract must be in writing and delivered to the following addresses unless otherwise stated in the Contract:

17.17.1. to Supplier at legal@sipcom.com and the address shown on the invoice or any address, including email address, which Supplier provides to the Customer for this purpose; or

17.17.2. to the Customer at any one or more of the following: the address to which the Customer asks Supplier to send invoices or the address of the Site or the Customer's primary email address or if the Customer is a limited company, its registered office.

- 17.18. The Customer must inform Supplier immediately if there is any change to any of the contact information the Customer provided to Supplier.

Law and Jurisdiction

- 17.19. This Contract and all related documents and all matters arising out of or relating to this Contract, whether sounding in contract, tort, or statute are governed by, and construed in accordance with and enforced under the laws of the State of New York, United States of America (including its statutes of limitations and N.Y. Gen. Oblig. Law § 5-1401), without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of New York.

- 17.20. Any legal suit, action, or proceeding arising out of or relating to this Contract or the transactions contemplated hereby or shall be instituted in any court located in the state of New York and County of New York, in the Manhattan borough of New York City, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. The parties irrevocably and unconditionally waive any objection to the laying of venue of any suit, action, or proceeding in such courts and irrevocably waive and agree not to plead or claim in any such court that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

Customer's Instructions

- 17.21. Supplier may take instructions from any person whom it thinks, with good reason, is authorized by and/or acting with the Customer's permission.