

Daly Telecom Limited Standard Terms and Conditions for Support and Maintenance Services on Account

1. Definitions

- 1.1. 'Company' means Daly Telecom Limited or Dalycom (a registered trading name of Daly Telecom Limited) incorporated in England and Wales with company number 02318132 whose registered office address is The Point, Granite Way, Mountsorrel, Loughborough, Leicestershire LE12 7TZ.
- 1.2. 'Business Day' means any and all days between Monday and Friday in any week but excluding English bank holidays or public holidays.
- 1.3. 'Confidential Information' information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information.
- 1.4. 'Contract' means the contract between the Company and the Purchaser for the supply of Goods and/or Services subject to these terms and conditions and also includes an order form signed between the Company and the Purchaser.
- 1.5. 'Contract Price' means the contract price as set out in the Scope of Contract.
- 1.6. 'Contract Renewal' means the time at which the contract is due to renew.
- 1.7. 'Customer Data' the data inputted into the information fields of the Software by the Purchaser, by Authorised Users, or by the Company on the Purchaser's behalf.
- 1.8. 'Duration of Contract' is the length of the Contract from the Start Date to the End Date.
- 1.9. 'End Date' means the date the Contract ends.
- 1.10. 'Equipment' means the hardware and/or software (equipment specified in the Scope of Contract) and/or the hardware requested to be covered by the Purchaser.
- 1.11. 'Goods' means the goods (or any part of them) as set out in the Contract.
- 1.12. 'Goods Specification' any specification for the goods, including any relevant plans or drawings, that is agreed in writing by the Company and the Purchaser.
- 1.13. 'Maintenance' is deemed as updating and keeping the Equipment and/or software in good working order.
- 1.14. 'Maintenance Services' the maintenance services supplied by the Company to the Purchaser as set out in the Specification (as modified or substituted from time to time).
- 1.15. 'Normal Working Hours' means 9.00am to 5.00pm on any Business Day.
- 1.16. 'Prohibited Act' is as defined in clause 14.12.
- 1.17. 'Purchaser' means the person, firm, organisation or company who purchases the Services from the Company.
- 1.18. 'Scope of Contract' means the formal document containing the terms agreed by the Company and the Purchaser and specifying the criteria of work to be carried out.
- 1.19. 'Services' means the services supplied by the Company to the Purchaser in accordance with the terms of this Contract.
- 1.20. 'Services Specification' the description or specification for the Services provided in writing by the Company to the Purchaser.
- 1.21. 'Site' means the location at which the Equipment is to be used as specified in the Installation Address in the Scope of Contract.
- 1.22. 'Specification' means Goods Specification or Services Specification.
- 1.23. 'Start Date' means the date the Contract begins.
- 1.24. 'Sub-Contractor' means any contract or agreement or proposed contract or agreement made between the Company and any Third Party or between a Contractor and any Third Party.
- 1.25. 'Support' means providing assistance to rectify a fault or answer a technical enquiry.
- 1.26. 'Third Party' means a person who is not a party to the Contract.
- 1.27. 'Upgrades' means a new version or improvement in functionality of a Software beyond that already purchased by Purchaser.

2. Background

- 2.1. The Company provides a Service consisting of Equipment Support, Equipment Maintenance, remote Support and professional Services, as agreed between the parties from time to time ("the Maintenance Services").
- 2.2. The Purchaser wishes to use some or all of the Services offered by the Company, as detailed in the Scope of Contract.
- 2.3. The Company has agreed to provide, and the Purchaser has agreed to take and pay for the Company's service subject to the terms and conditions of this Contract

3. Service

- 3.1. The Company undertakes to provide Support and Maintenance as detailed within this Contract. No variation or change to these conditions shall apply unless detailed in the Scope of Contract.
- 3.2. The Company reserves the right to audit and inspect the Equipment prior to commencement of the Contract and to exclude such Equipment that is deemed by the Company to be unsuitable. The Company in this instance reserves the right to either refuse to support such Equipment or to charge the Purchaser to ensure such Equipment reaches the required standard of operation as laid out in the manufacturer's operational manuals in order for support to commence on a time and materials basis. In the event that the Contract has commenced prior to an audit and health check taking place, then the Company reserves the right to supply labour and travel only as part of the Contract until such time, (maximum one month) that an audit or inspection can take place. During this period the Purchaser agrees to be charged by the Company for any parts required in order for the Equipment to reach an operational standard. These parts if required, will be charged at normal manufacturers recommended prices plus VAT.

4. Purchaser's Obligations

- 4.1. The Purchaser shall:
 - 4.1.1. Provide the Company with:
 - 4.1.1.1. all necessary support in relation to this Contract ; and
 - 4.1.1.2. access to all necessary and up to date information as may be required by the Company;
 - 4.1.1.3. full, safe and uninterrupted access including remote access, as the Company requires to provide the Services as may be reasonably required for the purpose of performing the Services, such access, except in the case

of emergency or agreed out-of-hours downtime, to be within the Normal Working Hours. Where the Services are to be performed at any of the Purchaser's premises, the Purchaser shall provide adequate working space and office facilities (including telephone) for use by the support staff and take reasonable care to ensure their health and safety, and co-operate with the Company's efforts to diagnose the fault by reproducing the symptoms on request, and the Purchaser hereby acknowledges that the Company shall have no liability whatsoever should it be prevented from providing the Services due to the Purchaser's failure to comply with these clauses;

- 4.1.1.4. The Purchaser shall nominate a manager to be available to liaise with, and respond to queries from the Company in order to render the Services, including but not limited to Customer Data, security access information and software interfaces to the Purchaser's other business applications

- 4.1.2. comply with all applicable laws and regulations with respect to its activities under this Contract;
- 4.1.3. carry out all other Purchaser responsibilities set out in this Contract or in the Scope of Contract in a timely and efficient manner. In the event of any delays in the Purchaser's provision of such assistance as agreed by the parties, the Company may adjust any timetable or delivery schedule set out in this Contract as reasonably necessary;
- 4.1.4. ensure that the Equipment is kept at the specified location and used in accordance with the manufacturer's recommendations also ensuring that appropriate environmental conditions are maintained for the Equipment, e.g. a clean a.c. voltage supply, sufficient air space surrounding Equipment, no vibration, etc. The Equipment should be operated in a proper manner by the Purchaser's employees. Any magnetic media used is subject to particular restrictions for reliable operation and is the specific responsibility of Purchaser;
- 4.1.5. pay the Company the Contract Price prior to the Start Date and as per the agreed payment terms, also pay it's charges for any site visits where such visit is in connection with a fault not covered by these terms or where a reported fault proves not to be a fault, in the event of work done outside the scope of this Contract, additional fees levied for non-contracted services;
- 4.1.6. indemnify the Company against all liabilities, costs, damages and claims of any kind from third parties in connection with defects in the Equipment and/or Software resulting from, other than fair wear and tear or where the Equipment and/or Software has been interfered with in any way by any person other than the Company's authorised representatives;
- 4.1.7. hold and provide upon request by the Company, the applicable licence number(s) for the software and/or hardware;
- 4.1.8. keep full security copies of the Purchaser's programs, databases and computer records in accordance with best computing practice;
- 4.1.9. make available to the Company such programs, operating manuals and information as may be necessary to enable the Company to perform its obligations under this Contract;
- 4.1.10. promptly notify the Company if any part of the system is not operating properly; and
- 4.1.11. remain solely responsible at all times for the safeguarding of their proprietary, confidential and classified information.

4.2. The Purchaser shall not:

- 4.2.1. tamper, repair or in any way interfere with the Equipment and/or Software, or allow any Third Party to do so, which could lead to possible damage or incursion of foreign material or remove the Equipment to a different location without written notification and approval of the Company; or
- 4.2.2. attempt to decompile the Software or any part of it, nor permit any Third Party to do so except to the extent permitted by law.

5. Company's Obligations

- 5.1. The Company undertakes that the Services will be performed with reasonable skill and care.
- 5.2. The undertaking at clause 5.1 shall not apply to the extent of any non-conformance which is caused by use of the hardware, software or equipment owned by the Purchaser contrary to the Company's instructions or modification or alteration of the hardware, software or equipment by any party other than the Supplier or the Company's duly authorised contractors or agents. The Company does not warrant that the use of hardware, software and equipment will be uninterrupted or error-free.
- 5.3. The Purchaser's data shall be processed in accordance with the rights of data subjects under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018. The Company will not share the Purchaser's information with any third parties except for those stated in clause 15.5 or unless directed by the court of law.

6. Response Times

The Company shall not be liable for any delay in the execution of this Contract due to the non-availability of particular components or incidence of coincidental calls to the customer service department, by any of the clauses listed under 15.3, by any failure or delay by a Third Party or Sub-Contractor or by any other circumstance beyond the Company's control. The Company will use its best endeavours to give assistance at all times within the terms of the Contract.

7. Company Staff

- 7.1. The Company's staff is its most valuable asset. If the Purchaser or a Third Party were to engage or try to engage them without the Company's agreement, the Company would suffer serious loss. The Purchaser agrees that it will not engage or try to engage the Company's staff or introduce them to any Third Party other than in good faith and without any view to their engagement by a Third Party.
- 7.2. The Purchaser further agrees that if it does engage or try to engage (or if a Third Party does so following introduction by the Purchaser) any member or former member of the

Company's staff with whom the Purchaser has had material contact in the course of dealings with the Company within the immediately preceding 12 months, the Purchaser will pay the Company by way of liquidated damages such sum as represents 100% of the annual salary (or other annualised amount last payable by the Company) for the individual in question, which both parties agree is a fair and reasonable pre-estimate of the likely loss the Company would suffer.

8. Scope of Support and Maintenance Cover

- 8.1. The provisions of service under the Contract are strictly limited to the diagnosis of hardware or software faults arising in the equipment covered by this Contract. In particular no service or support is provided on operating systems, utility or application software other than those agreed unless specifically stated in the Scope of Contract. In addition, due to their vulnerability and build process, no support is included in the repair of portable computers. Ancillary Equipment or software not covered by the Contract will be removed or disconnected, and the repair and tests conducted, will be on the supported Equipment.
- 8.2. Under no circumstances shall the Company be liable to reinstate or assist in the reinstatement of (or be responsible for the cost of reinstatement of) any data lost by the Purchaser, save where such data loss is caused by the provision of negligent Maintenance by the Company, whereby the Company shall be responsible for the restoration of secured data only (stored on media approved by the Company) but not for any re-keying of data lost, which has not been secured on restorable media. It is the Purchaser's responsibility to ensure that data backups are taken on a regular basis, and the Company shall not be liable for any data loss.
- 8.3. Support on hardware and software is deemed as giving assistance to rectify a fault or answer a technical enquiry. It is not the repair or replacement of hardware, or the upgrade of software. If the Purchaser has made changes to the topology of their network or their operating systems, thus causing a support issue to be raised. Then the Company has the right to charge the Purchaser for giving assistance to resolve it:
 - 8.3.1. The Company shall issue software updates in the absolute discretion of the Company.
 - 8.3.2. For the avoidance of doubt, the cost of the updating Service is included in the agreement for the Support service but excludes any sum payable by the Purchaser in respect of the Upgrades to software. Maintenance on hardware and software is deemed as updating and keeping the Equipment in a good working order. Maintenance can, but does not always, include patches and upgrades to software, and repairs and replacements to Hardware.
 - 8.3.3. Upgrades to software will only be available if the Purchaser has Software Assurance or Maintenance cover on the software if a fault has occurred and the only way to resolve it is to upgrade to the latest version.
 - 8.3.4. Upgrades will not be included and are chargeable by the Company if the Purchaser does not have Maintenance cover Software assurance or wishes to upgrade but does not have a fault or has caused a fault by their own actions.
- 8.4. The Company shall have no obligation to provide the Services where faults arise from:
 - 8.4.1. Misuse, incorrect use of or damage to the Software from whatever cause (other than any act or omission by the Company, including failure or fluctuation or electrical power);
 - 8.4.2. Failure to maintain the necessary environmental conditions for use of the Software;
 - 8.4.3. Use of the Software in combination with any equipment or Software not provided by the Company or not designated by the Company for use with any modification forming part of the Software, or any fault in any such equipment or Software;
 - 8.4.4. Relocation (or installation) of the Software by any person other than the Company or a person acting under the Company's instructions;
 - 8.4.5. Any modification not authorised by the Supplier; or
 - 8.4.6. Operator error.
- 8.5. Fair Usage
 - 8.5.1. Where possible, telephone and dial-up calls are restricted to a 30 (thirty) minute period, at which time the Company customer services department may request an on-site visit be made to the Purchaser. In the event that the Purchaser declines an on-site visit whether chargeable or not, then the Company has the right to withhold further support on that incident.
 - 8.5.2. The Company will provide remote programming changes within the Support cover; however they are limited to a fair usage policy of not more than 15 (fifteen) minutes work per month. Details of required changes must be communicated and agreed in writing, and will be completed at the earliest convenience and not subject to the Contract response times. If the required changes are for a specific time or are of an urgent nature, then the request will have to be processed via the Sales department and the Purchaser will be charged accordingly.

9. Duration of Contract

- 9.1. The Contract will run from the first day of a month. If the Purchaser takes out a contract between the 2nd and last day of the month, then the Purchaser will be charged on a pro rata basis for the Contract. The Purchaser will be supported by the Company from the date requested for the duration of the contract period which will then end or be renewed on the last day of the month concerned, subject to the normal terms and conditions of this contract with the exception that no on-site visit shall be provided in the first month unless specifically agreed.
- 9.2. As set out in the Scope of Contract, contract prices are payable either monthly, quarterly, or annually in advance. Delayed payment will result in services being suspended. This Contract shall remain in force for the period specified in the Scope of Contract, of this Contract and will run from the Start Date and thereafter until determined by 60 Business Days written notice prior to the end of the contract by the Purchaser. If the Purchaser has not notified the Company within 60 Business Days prior to the end of the Contract then the Purchaser will be liable for a further twelve months payment and the Company's support services will continue once payment is received.

10. Renewal

At the time of renewal of the Contract, the Company is entitled to increase the fees up to a maximum of ten per cent (10%) of the previous year's contract price (the "Increased Fees"). If the Purchaser does not terminate this Contract with 60 Business days' written notice (the "Notice") to the Company, such Increased Fees shall apply from the time of such renewal. In the event that the Increased Fee exceeds ten per cent (10%) of the previous year's contract price, then the Company shall notify the Purchaser in excess of the Notice, and the Purchaser may terminate this Agreement with such Notice prior to the time of renewal of the Contract.

11. Additions and Deletions

- 11.1. During the term of the Contract, the Purchaser, on acceptance by the Company, may add further Equipment to the Contract on a pro-rata invoice basis. This will allow the Purchaser to retain a single global Contract with a single renewal date. The agreed support cost for additional Equipment will be divided by 12 (twelve months in the year), and multiplied by the months remaining on this Contract. Payment for these additional Equipment will be required in advance.
- 11.2. Where the Equipment is deemed by the Company not to be suitable for continued support under the terms of the Contract or where the Purchaser simply stops using the Equipment, or wishes them removed from the Contract, for whatever reason, then this Equipment will be removed by the Company from the Contract. In these circumstances, support on this Equipment will cease and no refund will be made available to the Purchaser.
- 11.3. Where the Purchaser upgrades the Equipment or replaces the Equipment on the Contract with similar Equipment, such as in replacing an old server with a new server, then the Company shall replace the said Equipment on the Contract with the new Equipment. In these circumstances if the support cost for the new Equipment is deemed by the Company to be higher, then the Purchaser may be required to pay the Company the difference in support costs, again on a pro-rata basis. If for any reason the new Equipment is deemed less expensive to support, than the replaced Equipment, then no refund will be given to the Purchaser by the Company and the support cost shall remain unchanged. All additions will need to be audited by the Company prior to being added to the Contract.

12. Payment

- 12.1. If payment of any sum payable to the Company is not made on or before the due date the Company shall be entitled to charge interest thereafter on such sum at the rate of 4% per annum above the current base rate of National Westminster Bank plc such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month whether before or after judgement.
- 12.2. The Company will send invoices to the Purchaser via email (e-billing) to the e-mail address notified by the Purchaser to the Company. If the Purchaser does not give a valid email address, the invoice will be sent to the registered address of the Purchaser at an additional cost to the Purchaser as set out in the Tariff.
- 12.3. An additional cost of £2.50 will be added to the monthly invoice where the Purchaser requests paper-based invoices.
- 12.4. If the Company is unable, for whatever reason, to recover the sums due under the Purchaser's account within 4 Business Days following the due date for payment, the Company reserves the right to suspend all or any of the Services.
- 12.5. If the Purchaser's account remains unpaid, the Company may require a security deposit of three times the average monthly invoice or payment in full for the next 12 months before the Company will reinstate the Service.
- 12.6. If the Purchaser's account remains unpaid for a period of 24 Business Days after the original due date for payment, the Services may then be terminated by the Company.
- 12.7. If the Purchaser's account remains outstanding for any reason after the original due date for payment, then:
 - 12.7.1. the Purchaser will be charged any fee charged by the Bank or any other party that is levied on the Company as a result of any delay or missed payment by the Purchaser and an administration fee for each piece of correspondence in connection with the recovery of the overdue amount; and
 - 12.7.2. the Company reserves the right to refer the outstanding account to a debt collection agency. If the Company is required to instruct a debt collection agency to collect payment (including interest and late payment charges) on its behalf the Purchaser must pay the Company's costs payable to the agency, who will add the sum to the Purchaser's outstanding debt.
- 12.8. The Purchaser is required to ensure that the name of the account holder is the same as the name on the payment details provided.
- 12.9. Where an active Direct Debit payment has been rejected, an additional administration fee of £15.00 will be added to the monthly invoice.
- 12.10. If the Purchaser cancels an active Direct Debit instruction once a Contract has commenced an additional administration fee will be added to the monthly invoice until the Direct Debit is reinstated.
- 12.11. The Company may, without notice, withhold any payments due to the Purchaser under the Contract or any other agreement between the Company and the Purchaser if:
 - 12.11.1. the Company has reason to believe the Purchaser is in breach of the Contract;
 - 12.11.2. the Purchaser is conducting its business or using a Service illegally (including without limitation in breach of the Code or any OFCOM requirements) or for an illegal purpose; and/or
- 12.12. If any sum owed by the Purchaser to the Company under the Contract or any Contract with the Company is not paid by the due date, the Company may deduct this sum from any payment or credit due to the Purchaser under the Contract or any other Contract with the Company.
- 12.13. Payment of all sums due to the Company shall be made without any set-off whatsoever.
- 12.14. If the Purchaser intends to dispute any charge on an invoice the Purchaser must do so in writing to the Company within 10 Business Days of the date of the invoice and provide the Company with all relevant information in support of the disputed charge and pending resolution of the dispute; where the disputed charge(s) amount to:
 - 12.14.1. less than 5% of the total charges listed on the invoice, the Purchaser must pay the full amount of the invoice; or

- 12.14.2. more than 5% of the total charges listed on the invoice, the Purchaser must pay the remaining amount of the invoice that is not in dispute.

13. Liability

- 13.1. The Company does not exclude or restrict its liability for death or personal injury arising from negligence or any proven fraudulent misrepresentation.
- 13.2. The Company does not exclude or restrict its liability for physical damage to tangible property arising from negligence.
- 13.3. The Company shall have no liability whatsoever for the following howsoever caused and whether or not foreseeable:
- 13.3.1. Loss or damage to data, consequential financial loss, including lost profit, efficiency, business, income, savings and reputation.
- 13.3.2. Other consequential loss or damage or Third Party claims (other than in all cases death or personal injury arising from negligence).
- 13.3.3. Loss of email or internet or telephone connections for whatever reason.
- 13.3.4. Increased telephone/internet call charges.
- Subject to the provisions of the preceding paragraphs, the Company's liability howsoever arising, in respect of the Equipment and Services provided hereunder shall be strictly limited to the value of the Contract.
- 13.4. Subject to clause 13.1
- 13.4.1. The Company shall not be liable to the Purchaser whether in contract, tort (including negligence), breach of statutory duty or otherwise for any loss of profit, or any indirect or consequential loss arising under or in connection with the Contract; and
- 13.4.2. The Company's total liability to the Purchaser in respect of all losses arising under or in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise shall not exceed the value of the Goods
- 13.4.3. The Company shall not be liable for any breach of the Purchaser's obligations under this Contract howsoever arising or having the Software maintained by a Third party.
- 13.5. Except as set out in these conditions all warranties, covenants and obligations by the Company to the Purchaser implied by statute or common law are, to the fullest extent permitted by law and excluded from the Contract.
- 13.6. This clause 13 shall survive termination of the Contract.

14. Sites

- 14.1. To enable the Company to fulfil its obligations under any Contract:
- 14.1.1. The Purchaser shall permit or procure permission for the Company and any other person(s) authorised by the Company to have reasonable access to the Purchaser's Sites, Equipment and any other relevant telephone system and other equipment and shall provide such reasonable assistance as the Company requests.
- 14.1.2. The Company will carry out work, by appointment during Normal Working Hours but may request the Purchaser to provide access at other times (as agreed by both parties, in accordance with clause 14.2.).
- 14.2. At the Purchaser's request, the Company may agree (at its sole discretion) to work outside Normal Working Hours and the Purchaser shall pay the Company's reasonable charges for complying with such a request.
- 14.3. The Purchaser warrants, represents and undertakes that it has adequate health and safety provisions in place at its Sites.
- 14.4. The Purchaser shall procure all consents, licences and permissions necessary from landlords or other third parties for the carrying out of preparation work, installation of Equipment and for the use and operation of the Equipment and Services at the Sites.
- 14.5. In the event that the Purchaser is not able to procure the necessary consent as listed in clause 14.4. to provide the Services within 3 months from the Start Date, the Company will be able to terminate the Contract forthwith by giving the Purchaser written notice without any liability. If the Purchaser has not managed to procure the necessary consents and the Company has commenced work, the Company may ask the Purchaser to refund to the Company the cost of all such work (including, without limitation, staff costs and Equipment costs) at its then current prices.
- 14.6. The Purchaser shall provide the Company with the site and building plans (to include full details of all internal cabling runs) of the Sites and provide the Company with full details of all other services in the vicinity of the proposed works.
- 14.7. The Purchaser is responsible for making the Site good after any work undertaken by the Company at a Site, including without limitation replacing and re-siting items and for re-decorating.
- 14.8. If the Purchaser is moving a Site, the Company must be informed as soon as is reasonably practicable so that suitable arrangements can be made to transfer the Purchaser's Services and Equipment. The Company reserves the right to undertake an inspection and may charge on the same basis if required as per clause 3.2. Should Equipment be found in a different location than agreed, charges may be levied to recoup expenses for additional time and resources. Unless otherwise requested, the Company, in addition to moving the Service and Equipment, will also endeavour to retain the Purchaser's existing telephone number(s). If the Company can transfer the Purchaser's existing number to the new Site the existing Contract will continue under the same terms and conditions. If the Company cannot transfer the Purchaser's existing number to the new Site, installation of a new line will be required at the new Site, or if the Purchaser requires any additional new lines, this will attract new line connection charges and a new Contract.
- 14.9. If the new installation or moving Site involves the visit of an engineer to facilitate the new installation the Purchaser will be responsible for the costs incurred by the Company for the appointment together with an administration fee in respect of any additional works required to be undertaken by the Company to complete the transfer of the Services and Equipment.
- 14.10. If the Purchaser moves Sites and leaves the Equipment for the new owner/tenant the Purchaser is required to inform them that the Service will be discontinued if the Company is not contacted by the new owner/tenant within 72 hours for the purpose of entering into a new Contract.

- 14.11. If, at the new Site, the Purchaser receives services from an alternative supplier the Purchaser is responsible for any contractual agreement the Purchaser has with said additional supplier, and any liabilities the Purchaser may incur for terminating such agreement.
- 14.12. Anti-Bribery and Anti-Corruption
- 14.12.1. For the purposes of this clause 14.12., Prohibited Act means:
- 14.12.1.1. offering giving or agreeing to give to any servant of the Purchaser any gift or consideration of any kind as an inducement or reward:
- 14.12.1.1.1. for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Contract or any other agreement with the Purchaser; or
- 14.12.1.1.2. for showing or not showing favour or disfavour to any person in relation to this Contract or any other agreement with the Purchaser;
- 14.12.1.2. entering into this Contract or any other agreement with the Purchaser where a commission has been paid or has been agreed to be paid by the Company or on its behalf, or to its knowledge, unless before the relevant agreement is entered into, particulars of any such commission and of the terms and conditions of any such agreement for the payment thereof have been disclosed in writing to the Purchaser;
- 14.12.1.3. committing any offence:
- 14.12.1.3.1. under the UK Bribery Act 2010;
- 14.12.1.3.2. under legislation creating offences in respect of fraudulent acts, or
- 14.12.1.3.3. at common law in respect of fraudulent acts in relation to this Contract or any other agreement with the Purchaser; or
- 14.12.1.4. defrauding or attempting to defraud or conspiring to defraud the Purchaser.
- 14.12.2. The Company shall not:
- 14.12.2.1. commit any Prohibited Act; nor
- 14.12.2.2. enter into this Contract if it has knowledge that it, or any person acting on its behalf, has committed any Prohibited Act in connection with this Contract or any other agreement between the Company and the Purchaser.
- 14.12.3. If the Company (including any Company employee, Sub-Contractor or agent, in all cases whether or not acting with the Supplier's knowledge) breaches clause 14.12.2 the Purchaser may terminate this Contract by written notice with immediate effect.
- 14.12.4. Any termination under clause 14.12.3. shall be without prejudice to any right or remedy that has already accrued, or subsequently accrues, to the Purchaser.
- 14.12.5. Any dispute relating to:
- 14.12.5.1. the interpretation of clause 14.12.2. to clause 14.12.4. inclusive; or
- 14.12.5.2. the amount or value of any gift, consideration or commission, shall be determined by the Purchaser and the decision shall be final and conclusive.
- 14.13. Modern Slavery
- 14.13.1. The Company will comply with all applicable laws, regulations, codes and sanctions relating to modern slavery, forced labour and human trafficking including the Modern Slavery Act 2015 or any equivalent legislation in any other jurisdiction in which the Company operates and not do anything which would constitute an offence under the Modern Slavery Act 2015 if it had been done in the UK.
- 14.13.2. The Company warrants that neither the Company nor any of its officers, employees, agents or Sub-Contractors has:
- 14.13.2.1. committed an offence under any modern slavery legislation;
- 14.13.2.2. been notified that it is subject to an investigation relating to an alleged offence or prosecution under any modern slavery legislation; or
- 14.13.2.3. is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged offence or prosecution under any modern slavery legislation.
- 14.13.3. The Company shall notify the Purchaser promptly in writing if it becomes aware or has reason to believe that it or any of its officers, employees, agents or Sub-Contractors have breached or potentially breached any of the Company's obligations under this clause 14.3. Such notice to set out full details of the circumstances concerning the breach or potential breach of the Company's obligations.
- 14.14. Skill and Care
- 14.14.1. The Company warrants that the Services will be performed by appropriately qualified, trained and competent personnel with all due care, skill and diligence, in accordance with best industry practice and to the highest standard of quality as it is reasonable for the Purchaser to expect.
- 14.15. Anti-Tax Evasion Facilitation
- 14.15.1. The Company shall and shall procure that persons associated with it or other persons who are performing services in connection with this Contract shall:
- 14.15.1.1. not engage in any activity, practice or conduct which would constitute either:
- 14.15.1.1.1. a UK Tax Evasion Offence or Foreign Tax Evasion Offence within the meaning of Part 3 of the Criminal Finances Act 2017 and guidance published under it;
- 14.15.1.1.2. a UK tax evasion facilitation offence under section 45(1) of the Criminal Finances Act 2017; or
- 14.15.1.1.3. a foreign tax evasion facilitation offence under section 46(1) of the Criminal Finances Act 2017;
- 14.15.1.2. promptly report to the Purchaser any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the Criminal Finances Act 2017;
- 14.15.1.3. have and shall maintain in place such policies and procedures as are both reasonable to prevent the facilitation of tax evasion by another person (including without limitation employees of the Company) and to ensure compliance with clause 14.16.1.1;
- 14.15.1.4. if requested, provide the Purchaser with any reasonable assistance to enable the Purchaser to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with criminal facilitation of tax evasion legislation; and

- 14.15.1.5. provide such supporting evidence of compliance to the Purchaser as may reasonably be requested.
- 14.15.2. The Company warrants and represents that:
 - 14.15.2.1. neither the Company nor any of its officers, employees or other persons associated with it:
 - 14.15.2.1.1. has been convicted of any offence involving tax evasion or the facilitation of tax evasion;
 - 14.15.2.1.2. to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence concerning tax evasion or the facilitation of tax evasion;
 - 14.15.2.1.3. has been or is listed by any government agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or other government contracts including, without limitation, any exclusion under regulation 57 of the Public Contracts Regulations 2015 (SI 2015/102) or regulation 80 of the Utilities Contracts Regulations 2016 (SI 2016/274);
- 14.15.3. The Company shall promptly notify the Purchaser if, at any time during the term of this Contract, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 14.16. at the relevant time.
- 14.15.4. Breach of this clause 14.16. shall be deemed a material breach under this Contract.
- 14.15.5. If the Purchaser terminates this Contract for breach of this clause 14.16, the Company shall not be entitled to claim compensation or any further remuneration, regardless of any activities or agreements with additional third parties entered into before termination.
- 14.15.6. For the purpose of this clause 14.16. whether a person is associated with another person and the meaning of reasonable prevention shall be determined in accordance with section 44 of the Criminal Finances Act 2017 (and any guidance issued under section 47 of that Act) and, for the purposes of this clause 14.10, a person associated with the Company includes but is not limited to any Sub-Contractor designated as such by the Company.

15. General

15.1. Publicity

The Company may include reference to the fact that it is providing Services to the Purchaser in its publicity material, in terms to be approved by the Purchaser (such approval not to be unreasonably withheld). Subject thereto, except with the written consent of the other party, neither party shall make any press announcements or publicise this Contract in any way.

15.2. Severability

If any of these terms is held by any Court or other competent authority to be wholly or partially void, invalid, or unenforceable such term shall be removed or replaced by such term as the court deems reasonable in all the circumstances

15.3. Force Majeure:

- 15.3.1. For the purpose of the Contract a Force Majeure Event means an event beyond the reasonable control of the Company including but not limited to strikes, lock out, failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, accident, breakdown of plant or machinery, terrorism, fire, flood, storm or default of suppliers or Sub-Contractors.
- 15.3.2. The Company shall not be liable to the Purchaser as a result of any delay or failure to perform its obligations under the Contract as a result of a Force Majeure Event.
- 15.3.3. If the Force Majeure Event prevents the Company from providing any of the Goods or Services for more than five working days the Company shall without limiting its other rights and remedies have the right to terminate this Contract immediately by giving written notice to the Purchaser.

15.4. This Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims), shall be governed by, and construed in accordance with, the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of, or in connection with, this Contract or its subject matter or formation (including non-contractual disputes or claims).

15.5. The Company may at any time assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under this Contract and may subcontract or delegate in any manner any or all of its obligations under this Contract to any third party or agent.

15.6. The Contract constitutes the entire agreement between the parties. The Purchaser acknowledges that it has not relied on any statement, promise, representation, assurance or warranty made or given by or on behalf of the supplier which is not set out in the Contract.

15.7. Value Added Tax

All sums referred to under the Contract, Goods Specifications and/or Services Specifications are (unless otherwise stated) exclusive of Value Added Tax (VAT) and any taxes of a similar nature which may from time to time be introduced, which will be payable at the prices ruling at the date of the invoice

