Terms & Conditions

1. INTRODUCTION AND DEFINITIONS

1.1 The Customer (as defined in clause 1.2 below) understands that in order to receive the Equipment/Services (as defined in clause 1.2 below) and the Airtime Services (as defined in clause 1.2 below) they are required to enter into two separate agreements. These are:

1.1.1 This Agreement with Excalibur Communications (GB) Ltd which governs the supply of the Equipment and/or Services from Excalibur Communications (GB) Ltd to the Customer and supersedes any previous Mobile Agreement between the Customer and Excalibur Communications (GB) Ltd; and

1.1.2 The Airtime Agreement (as defined in clause 1.2 below) with the relevant network/service provider.

1.2 In this Agreement, the following words and expressions shall have the meanings set out below: "Airtime Agreement'' means the agreement which governs the provision of Airtime Services from the relevant network/service provider, a copy of which can be found at the following location: https://www.vodafone.co.uk/terms-and-conditions/. "Airtime Services" means cellular mobile telecommunications airtime and network capacity procured from a network/service provider; "Connection" means the connection of an end user to a network or service provider such that the end user is capable of accessing and utilising the Airtime Services; "Customer" means the person ordering the Equipment/Services and/or the Airtime Services whose full details are set out in the form overleaf; "Downward Migration" means in respect of a Connection, the transfer (at the request of the Customer) from one tariff provided by the network/service provider ("the Old Tariff") to another tariff provided by that same network/service provider ("the New Tariff") which results in the Customer being charged a lower monthly line
rental under the New Tariff than it was being charged under the Old Tariff, and the phrase "Downward Migrated shall be construed accordingly; "Equipment" means mobile telecommunications handsets and other associated equipment; ''The Funder'' refers to a third party lease company or Finance House; "Minimum Terms" means the minimum period of time which the Customer has agreed to maintain (a) Connection(s) under the Airtime Agreement; "Monthly Subsidy Amount" means the amount which is derived by dividing the Subsidy payable for a Connection by the number of months in the Minimum Term applicable to that Connection; "Services" means any services ordered by the Customer and provided by Excalibur Communications (GB) Ltd; "Signatory" means the individual signing the Customer Contract Form; and "Subsidy" means the sum payable by Excalibur Communications (GB) Ltd to the Customer as is determined by Excalibur Communications (GB) Ltd in its sole discretion, taking into consideration the number of Connections which the Customer is taking out and the applicable tariffs and the Minimum Term which the Customer is prepared to enter into.

2. APPLICABLE TERMS

Unless other terms and conditions are expressly accepted by Excalibur Communications (GB) Ltd by means of a specific written amendment signed by a director of Excalibur Communications (GB) Ltd the supply of Equipment and or the provision of Services will be on the terms and conditions set out in this Agreement to the exclusion of any other terms and conditions whether or not the same are endorsed upon, delivered with or referred to in any purchase order or other document delivered or sent by the Customer to Excalibur Communications (GB) Ltd.

3. SUPPLY OF CUSTOMER EQUIPMENT

3.1 In consideration of the Customer entering into the Airtime Agreement, Excalibur Communications (GB) Ltd undertakes to supply to the Customer such Equipment/Services as is ordered by the Customer from time to time.

3.2 Excalibur Communications (GB) Ltd shall use its reasonable endeavours to deliver the Equipment on the date agreed by the parties but the Customer acknowledges that time shall not be of the essence.

3.3 Notwithstanding delivery and acceptance of the Equipment to the Customer, title to the same will not pass to the Customer but will be retained by Excalibur Communications (GB) Ltd (or by any Funder) until the earlier of either (i) the expiry of the Minimum Term or (ii) the date on which all undisputed invoices relating to the same (including VAT) have been paid in full to Excalibur Communications (GB) Ltd.

3.4 The risk in the Equipment will pass to the Customer upon delivery and the Customer will be liable for any loss or damage of the same as and from the time when the Equipment is delivered to the address notified by the Customer.

3.5 The Customer undertakes to notify Excalibur Communications (GB) Ltd as to any alleged defect, shortage or discrepancy in any Equipment within 3 days of delivery of the Equipment to the Customer. In the event that the Customer fails to notify Excalibur Communications (GB) Ltd within this period then the Customer will be deemed to have accepted the Equipment and Excalibur Communications (GB) Ltd shall have no liability to the Customer whatsoever in respect of such Equipment.

4. PROVISION OF THE SERVICES

4.1 Excalibur Communications (GB) Ltd shall use its reasonable endeavours to provide the Services on the dates agreed by the parties.

4.2 Excalibur Communications (GB) Ltd shall use its reasonable endeavours to ensure that the services are provided with reasonable skill and care.

5. CHARGES AND PAYMENT

5.1 The Customer hereby agrees to pay Excalibur Communications (GB) Ltd for each item of Equipment and any Services ordered by and provided to the Customer within 5 days from the date of an Excalibur Communications (GB) Ltd invoice.

5.2 At the end of the initial period, if the customer wishes to keep the hardware provided under this agreement a charge of £50 + vat per device will be incurred by the customer

5.3 Excalibur Communications (GB) Ltd reserves the right at its absolute discretion to levy a surcharge for all credit card transactions in accordance with Excalibur Communications (GB) Ltd tariff applicable from time to time, a copy of which will be available at Excalibur Communications (GB) Ltd principal place of business

5.4 Interest at an annual rate of 5% above HSBC Bank plc base rate from time to time will accrue daily and be calculated on a daily basis on overdue accounts from the due date until payment.

6. PAYMENT AND RECLAMATION SUBSIDIES

6.1 Subject to the remaining provisions of this clause 6, Excalibur Communications (GB) Ltd may, acting in its sole discretion, provide the Customer with a Subsidy as a result of the Customer entering into the Airtime Agreement with the network/service provider. The Subsidy is calculated with reference to the length of the Minimum Term and therefore, subject to the provisions of this clause 6, the amount of Subsidy in any particular period of time (such period of time to be a **Subsidy Period** and shall be determined by Excalibur in its absolute discretion) is limited to the Monthly Subsidy multiplied by the number of whole months in the Subsidy Period. A Subsidy Period shall not exceed 12 months in length.

6.2 In the event that Excalibur Communications (GB) Ltd does provide the Customer with a Subsidy this may be provided to the Customer at the sole discretion of Excalibur Communications (GB) Ltd, using the following methods set out below or any combination of them:

6.2.1 Deducting the Subsidy from the value of the Equipment or the Services which the Customer orders from Excalibur Communications (GB) Ltd; or

6.2.2 Using the Subsidy to discharge any termination charges levied upon the Customer by the relevant network/service provider for terminating their previous airtime agreement subject to Excalibur Communications (GB) Ltd being provided with a copy of the relevant invoice from such network/service provider.

6.2.3 Use the Subsidy to settle any amount owed to Excalibur Communications (GB) Ltd by the Customer that has exceeded the credit terms set for the Customer's account with Excalibur Communications (GB) Ltd, provided that:-

6.2.3.1 Reasonable endeavours have been made to secure payment from the Customer for the amount owed and;

6.2.3.2 The credit terms set for the Customer have been exceeded by a minimum of 14 days.

6.3 Any Subsidy (or instalment payment of a Subsidy) payable by Excalibur Communications (GB) Ltd within 60 days from the date that the Customer presents an invoice to Excalibur Communications (GB) Ltd (save that no invoice shall be necessary where the Subsidy is being deducted from the price of the Equipment/Services ordered by the Customer pursuant to clause 6.2.1) provided that;

6.3.1 At all times the Connection is still active on the relevant payment date that the Subsidy (or instalment payment of the Subsidy) is due;

6.3.2 Where the invoice is payable in instalments or after a prescribed period of time the appropriate trigger date has passed.

6.3.3 The invoice has been raised in accordance with the provisions of this Agreement; and

6.3.4 Where the; (a) invoice is for termination charges pursuant to clause 6.2.3, this amount is invoiced within 3 months from the Connection date; and or (b) invoice is for the payment of monies pursuant to clause 6.2.2, this amount is for the payment of monies pursuant to clause 6.2.2, this amount is invoiced during the Minimum Term; and or (c) amount claimed is being deducted from the price of Equipment/ Services ordered by the Customer pursuant to clause 6.2.1 this amount is claimed during the Minimum Term; and in the event that the Customer fails to invoice/claim the Subsidy within the timescales set out in clause 6.34 (a) to (c) (inclusive) then the Customer's right to the Subsidy shall cease.

6.4 The Customer acknowledges that;

6.4.1 the payment of the Subsidy is conditional upon; (a) the Customer maintaining each Connection for the Minimum Term; and (b) the Customer not Downward Migrating any Connection during the Minimum Term; and (c) such other conditions as are notified to the Customer from time to time by Excalibur Communications (GB) Ltd

6.4.2 Excalibur Communications (GB) Ltd will provide the Subsidy prior to the satisfaction of the conditions set out in clause 6.4.1 and hence the need for clause 6.5

6.5 Excalibur Communications (GB) Ltd shall be entitled to reclaim from the Customer the Subsidy (or such proportion of the Subsidy) already paid to the Customer (or withhold such amount from any Subsidy or instalment of a Subsidy to be paid to the Customer) in the event that;

6.5.1 A Connection is for whatever reason disconnected prior to the expiry of the Minimum Term; or

6.5.2 A Connection is for whatever reason Downward Migrated during the Minimum Term; or

6.5.3 The relevant network/service provider (for whatever reason) reclaims or withholds in full or in part from Excalibur Communications (GB) Ltd any of the connection commission paid to Excalibur Communications (GB) Ltd by the network/service provider in respect of that Connection; and the proportion of the Subsidy that Excalibur Communications (GB) Ltd shall be entitled to reclaim from the

Customer shall be the Monthly Subsidy Amount for each month (and such pro rata amount for each incomplete month) of the balance of the Minimum Term which is unexpired at the date of disconnection or the Downward Migration.

6.6 In the event that a Customer cancels prior to connection, Disconnects a Connection or transfers away from Excalibur Communications (GB) Ltd prior to the expiry of the Minimum Term or a Connection is Downward Migrated during the Minimum Term then Excalibur Communications (GB) Ltd shall be entitled to charge the Customer an administration charge of £250 for each connection.

6.7 It is agreed between the customer and Excalibur Communications (GB) Ltd that the sum of up to £250 is a genuine attempt to pre-estimate the administrative expenses incurred in processing the said cancellation transfer or downward migration and the Customer irrevocably agrees not to subsequently challenge the charge as a penalty.

6.8 Any such sum reclaimed (or withheld) pursuant to clause 6.5 shall be invoiced to the Customer and such sum shall be payable (unless withheld) within 5 days of the date of Excalibur Communications (GB) Ltd invoice.

7. WARRANTIES

7.1 The Customer acknowledges that Excalibur Communications (GB) Ltd is not the manufacturer of the Equipment, and accordingly, that the warranty given by Excalibur Communications (GB) Ltd is limited as follows. If any Equipment is proved to the reasonable satisfaction of Excalibur Communications (GB) Ltd to be defective in material or workmanship then:

7.1.1 Subject to timely notification in line with clause 3.5 of this agreement, if the Equipment is returned to Excalibur Communications (GB) Ltd within 14 days of the date of their delivery then Excalibur Communications (GB) Ltd will at its option (a) repair the Equipment; (b) replace the Equipment; (c) substitute substantially equivalent goods or (d) credit the Customer in respect of any such Equipment. For the avoidance of doubt, where Excalibur Communications (GB) Ltd replaces Equipment or provides substitute goods, the original Equipment returned by the Customer will belong to Excalibur Communications (GB) Ltd, provided that these obligations on the part of Excalibur Communications (GB) Ltd will not apply where:- (a) the Equipment has been altered in any way whatsoever or has been subjected to misuse or unauthorised repair; or (b) the Equipment has been improperly installed or connected (unless Excalibur Communications (GB) Ltd carried out such installation and connection); or(c) The Customer has failed to observe any maintenance requirements relating to the Equipment or; (d) the Equipment has been expressly sold on a “no warranty” basis or in respect of any promotional items supplied from time to time with or in connection with the Equipment.

7.2 Save as provided in this Agreement Excalibur Communications (GB) Ltd hereby excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which but for such exclusion would or might subsist in favour of the Customer.

8. LIMITATION OF LIABILITY

8.1 Excalibur Communications (GB) Ltd liability for loss or damage of any kind whatsoever (however such liability arises and whether in contract, tort, for breach of statutory duty or otherwise) under or in connection with; (a) this Agreement and/or (b) any matter collateral to this Agreement and/or in respect of any representation or misrepresentation (other than a fraudulent misrepresentation made by or on behalf of Excalibur Communications (GB) Ltd); shall in no circumstances exceed the sum paid by the Customer to Excalibur Communications (GB) Ltd in respect of the Equipment or services with which such liability arises provided that nothing in this clause shall limit or exclude liability for death or personal injury arising from Excalibur Communications (GB) Ltd negligence.

8.2 Save as otherwise provided, Excalibur Communications (GB) Ltd will be under no liability under this Agreement for any personal injury, death, loss or damage of any kind whatsoever (other than death or personal injury resulting from Excalibur Communications (GB) Ltd negligence) whether consequential or otherwise including but not limited to loss of profits, pure economic loss, loss of business and depletion or goodwill.

8.3 Save for death or personal injury resulting from Excalibur Communications (GB) Ltd negligence, Excalibur Communications (GB) Ltd shall not be liable to the Customer for any loss as a result of electromagnetic frequencies or any similar result from use of the Equipment.

9. GENERAL

9.1 Excalibur Communications (GB) Ltd will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. In particular, but without in any way limiting its rights under this clause, Excalibur Communications (GB) Ltd may transfer title to the Equipment to a finance company (the "Funder") together with the benefit of any of the rights which it has at any time under this Agreement. The Customer shall not be permitted to assign or sub-let this Agreement or any part thereof without the written consent of Excalibur Communications (GB) Ltd.

9.2 Failure by Excalibur Communications (GB) Ltd to enforce any of the provisions of this Agreement will not be construed as a waiver of any of its rights hereunder.

9.3 Excalibur Communications (GB) Ltd shall be entitled to amend any of the terms of this Agreement upon the giving of 7 days written notice to the Customer.

9.4 In relation to all obligations of the Customer under this Agreement, the time of performance is of the essence.

9.5 The illegality, invalidity or unenforceability of any clause or part of the Agreement will not affect the legality, validity or enforceability of the remainder. If any such clause or part is found by any competent court or authority to be legal, invalid or unenforceable the parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

9.6 Each of the parties hereto is an independent contractor and nothing contained in this Agreement shall be construed to imply that there is any relationship between the parties of partnership or of principal/agent or of employer/employee.

9.7 The legal construction of these clauses shall not be affected by their headings which are for convenience of reference only.

9.8 Any demand, amendment, notice or communication shall be deemed to have been duly served.

9.8.1 If delivered by hand, when left at the proper address for service

9.8.2 if given or made by prepaid first-class post, 48 hours after being posted (excluding Saturdays, Sundays and public holidays)

9.8.3 If via email where email is sent to customerservices@excaliburcomms.co.uk

9.8.4 If given or made by fax at the time of transmission subject to receipt of the appropriate "clear" transmission report provided that where in the case of delivery by hand or transmission by fax such delivery or transmission occurs either after 4.00 p.m. on a Business Day or on a day other than a Business Day service shall be deemed to occur at 10.00 a.m. on the next following Business Day (such times being local time at the address of the recipient) For the purpose of this clause a "Business Day" is a day when the banks in the location of the recipient are open for a full range of banking transactions. Any demand, notice or communication shall be made in writing or by fax addressed to the recipient at

its registered office or its address stated in this Agreement (or such other address or fax number as may be notified in writing from time to time)

9.9 No variation to this Agreement may be made unless set out in writing and signed by a director of Excalibur Communications (GB) Limited.

9.10 If contrary to the declaration in the customer contract form the signatory does not have the actual authority of the customer to sign the form then the customer will remain responsible for any liability which the customer would have been liable but for the lack of authority of the signatory.

9.11 Any such personal liability shall be joint and several, with such liability the customer may have as a result of the signatory acting with the apparent authority of the customer.

9.12 In the event that the customer was not entitled to enter into this agreement for whatever reason then the signatory shall be liable as if the agreement had been entered into personally by the signatory.

9.13 This Agreement shall be governed by English Law and the parties

10. GENERAL DATA PROTECTION REGULATION

10.1 Protecting your personal information is incredibly important to Excalibur. Our privacy policy which sets out how we do this is available here: https://www.excaliburcomms.co.uk/gdpr-policy/. This policy explains the information that we hold, how we use it, and how long we keep it for. Please take a few minutes to read it.

11. BILL CAPPING

11.1 The Customer hereby confirms that they have been given the opportunity to specify billing limits as part of the Sales process.

11.2 For renewals and new connections completed on or after the 1st October, billing limits can be added during the contract, or any billing limits already put in place can be amended or removed either in respect of all billing periods or a specified billing period by contacting our Customer Service Team through the usual methods.

11.3 If a billing limit is reached, the Customer may: (1) Agree that the user will be barred from using service for the remainder of the month, (2) Request the limit to be removed permanently, or (3) Purchase additional bundles to allow continued usage.

Conditions of Sale

1 'The Company' means Excalibur Unified Communications Limited and all subsidiaries, 'the Buyer' means the person, firm or company ordering or buying the Goods from the Company; 'the Goods' means the goods the subject matter of the relevant order or contract for sale.

2.1 Each order or acceptance of a quotation for Goods by the Buyer from the Company shall be deemed to be an offer by the Buyer to purchase Goods subject to these conditions.

2.2 No contract in respect of the Goods between the Company and the Buyer shall exist until the Buyer's order has been accepted by the Company. The Company may accept the Buyer's order by formal order acknowledgement or by despatch of the Goods to the Buyer (whichever is earlier).

2.3 The Buyer shall be solely responsible for the accuracy of the Buyer's orders.

2.4 The Buyer can only cancel an order (or any part of an order) which the Company has already accepted, with the Company's prior agreement in writing.

2.5 The contract between the Company and the Buyer for the sale and purchase of Goods shall be on these conditions to the exclusion of all other terms and conditions (including any terms or conditions which the Buyer purports to apply under any purchase order, confirmation of order, specification or other document).

2.6 No conditions or terms stipulated in any other communication or document shall vary any of those conditions except insofar as the same are expressly consented to in writing by the Company.

Price and Description

3 Quoted prices include the cost of normal packaging but exclude delivery, transit insurance, (which are charged at extra cost), V.A.T. and installation charges (where applicable). Any work carried out additional to that specified in the relevant quotation or order, whether experimentally or otherwise, shall be charged.

4 The prices for the Goods shall be those ruling at the date of despatch and the Company reserves the right to amend its quoted prices at any time prior to the date of despatch.

5 Prices quoted are current trade prices. Prices of imported goods are subject to variances in exchange rates, and in consequence prices will be those holding at the time of delivery. Please telephone us should you wish to confirm current price.

6 The Company reserves the right to vary the specification of any item, withdraw, modify or amend any item without prior notice. Any such variation, withdrawal, modification or amendment shall not affect any order that has already been accepted by the Company, save that the Company reserves the right to make any changes in the specification of the Goods which are required to conform with any applicable statutory requirements.

Despatch and Payment

7.1 Unless otherwise specified the price quoted is for a packed item/goods. An extra charge will be levied to cover delivery and insurance costs. Please note that a charge may be made to cover any extra costs involved for delivery to a different address.

7.2 Should expedited delivery be agreed an extra may be charged to cover any overtime or any other additional costs involved.
7.3 Should work be suspended at the request of or delayed through any default of the Buyer for a period of 30 days the Company shall then be entitled to payment for work already carried out, materials specially ordered and other additional costs including storage.

7.4 The Company may deliver the Goods by separate instalments. Each instalment shall be a separate contract and no cancellation or termination of any one contract relating to an instalment shall entitle the Buyer to repudiate or cancel any other contract or instalment.

Delivery Dispute

8 If for any reason the Buyer fails to accept delivery of any of the Goods when they are ready for delivery, or the Company is unable to deliver the Goods on time because the Buyer has not provided appropriate instructions, documents, licences or authorisations:

8.1 Risk in the Goods shall pass to the Buyer (including for loss or damage caused by the Company's negligence);

8.2 The Goods shall be deemed to have been delivered; and

8.3 The Company may store the Goods until delivery, whereupon the Buyer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

Credit Policy and Payment Information

9.1 If you do not have a credit account open with us, please ask for a credit application form. Accounts usually take 1-3 days to set up, but this period can be reduced if this is specifically requested. Our Credit Controllers will be pleased to assist with any problems related to credit. We are pleased to offer credit terms to qualified parties.

9.2 Our credit terms, where applicable, are 30 days net from date of invoice. Statements are sent out at monthly intervals to enable you to check your current invoices paid and due.

9.3 Accounts with overdue balances will be placed on credit hold. This means that no further Goods will be shipped and all support and repair/warranty services withdrawn until the account is brought into order. Repeated failure to keep to our credit terms will result in the permanent loss of credit facility.

9.4 Payment may also be made by credit or debit card. We accept payment by Visa, MasterCard, Switch and Delta. Please confirm our bank details if you wish to make a payment by BACs.

9.5 If the Buyer fails to pay the Company any sum due pursuant to the contract, the Buyer shall be liable to pay interest to the Company on such sum from the due date for payment at the annual rate of 2% above the Bank of England base rate from time to time, accruing on a daily basis until payment is made, whether before or after any judgment.

9.6 The Buyer shall make all payments due under the contract in full without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Buyer has a valid court order requiring an amount equal to such deduction to be paid by the Company to the Buyer.

Retention of Title

10 The Company and the Buyer expressly agree that until the Company has been paid in full for the Goods comprised in this or any other sales contract between them and all outstanding amounts due to the Company

from the Buyer or any associated or subsidiary or holding company of the Buyer or from any director or shareholder of the Buyer or any other such company:

10.1 The Goods shall remain the property of the Company, and the Buyer, as Bailee of them for the Company, will store the same for the Company in a proper manner without charge and in such a way that the goods are clearly identified as being the property of the Company, notwithstanding that the risk therein shall pass to the Buyer as provided herein;

10.2 At any time the Company may recover from the Buyer the Goods remaining in the Buyer's possession, and may repossess and resell the Goods if the Buyer's right to possession of the Goods has terminated or if any sum due to the Company as referred to at the beginning of this clause is not paid when due, and for the purposes thereof may enter upon any premises of or occupied by the Buyer or any third party (with the consent of that third party);

10.3 The Company shall be entitled to recover payment for the Goods notwithstanding that ownership of any of the Goods has not passed from the Company;

10.4 The Buyer has the right to dispose of the Goods in the course of its business for the account of the Company and to pass good title to the Goods to their customers being bona fide purchasers for value without notice of the Company's rights;

10.5 In the event of such disposition the Buyer or its Director(s) (if a Limited Company) has the fiduciary duty to account to the Company for proceeds thereof but may retain therefrom an excess of such proceeds over the amount outstanding to the Company under this or any other sales contract between them and for all outstanding amounts due to the Company from the Buyer or any associated or subsidiary or holding company of the Buyer or from any director or shareholder of the Buyer or any other such company.

10.6 The Buyer's right to possession of the Goods shall terminate immediately if:

10.6.1 The Buyer has a bankruptcy order made against him or makes an arrangement or composition with his creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver and/or manager, administrator or administrative receiver appointed of its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Buyer or notice of intention to appoint an administrator is given by the Buyer or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding up of the Buyer or for the granting of an administration order in respect of the Buyer, or any proceedings are commenced relating to the insolvency or possible insolvency of the Buyer; or

10.6.2 The Buyer suffers or allows any execution, whether legal or equitable, to be levied on his/its property or obtained against him/it, or fails to observe or perform any of his/its obligations under the Contract or any other contract between the Company and the Buyer, or is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or the Buyer ceases to trade; or

10.6.3 The Buyer encumbers or in any way charges any of the Goods.

11. Notwithstanding the preceding condition, all risk in respect of the Goods shall be assumed by the Buyer upon delivery of the same to him.

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Communications and IT for Business

Buyer's Property

12.1 The Buyer's property supplied to the Company by or on behalf of the Buyer shall, while it is in possession of the Company or in transit to or from the Buyer, is deemed to be at the Buyer's risk and the Buyer shall insure accordingly.

12.2 The Company shall be entitled to make a reasonable charge for the storage of any of the Buyer's property left with the Company before receipt of the order or after notification to the Buyer of completion of the work.

Shortages or Damage in Transit

13.1 The Buyer shall examine the Goods immediately upon delivery. The Company shall have no liability in respect of claims in respect of shortages or picking errors or damage in transit unless the Buyer notifies the Company's Customer Services department by telephone on 01793 744688, followed by written notice within 5 working days after delivery. In any event, the Company shall have no liability in respect of claims in respect of shortages or damages in transit if the Buyer or its representative has signed for the Goods as being received in good condition.

13.2 Any liability of the Company for shortages or picking errors or damage in transit shall be limited to replacing the missing or wrongly picked or damaged Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods. The Buyer shall return to the Company, promptly upon request, and in accordance with the Company's returns policy set out in condition 18, any Goods that have been incorrectly delivered.

Non-Delivery

14.1 The Company shall not be liable for any non-delivery of Goods (even if caused by the Company's negligence) unless the Buyer notifies the Company's Customer Services department by telephone on 01793 744688, followed by written notice to the Company of the non-delivery within 5 working days of the date when the Goods would in the ordinary course of events have been received.
14.2 Any liability of the Company for non-delivery of the Goods shall be limited to replacing the Goods within a reasonable time or issuing a credit note at the pro rata Contract rate against any invoice raised for such Goods.

Late Delivery

15 Whilst the Company will use its best endeavours to deliver the Goods in accordance with the Buyer's requirements, the Company will not be liable for any consequences of late delivery howsoever caused.

Liability for Defective Products

16 The Company's liability (in contract, tort (including negligence), misrepresentation or otherwise) in respect of defects in the Goods shall be limited to the replacement or repair of faulty items or material, or the issue of credit notes in respect thereof, or the granting of a refund or other such compensatory measures as the Company at its discretion considers appropriate in the circumstances, and shall be conditional upon the Buyer complying with the conditions of the manufacturer's warranty (where applicable). Such measures shall relate only to the actual faulty items or their value.

Liability of Loss

17 The Company shall not in any circumstances be under any liability to the Buyer in respect of any pure economic loss, loss of profit, loss of business, depletion of goodwill or otherwise, in each case whether direct, indirect or consequential, or any claims for consequential compensation whatsoever (howsoever caused) which arise out of or in connection with any contract between the Company and the Buyer for the sale and purchase

of Goods, PROVIDED that these conditions do not exclude or restrict the Company's liability for fraudulent misrepresentation or for death or personal injury arising from its negligence.

Return of Goods

18.1 A Returns Authorisation Number must first be obtained from our Customer Service department either by telephone, letter or email.

18.2 The Company will not accept any returns unless they are notified to the Company within 14 days of the date of delivery and returned within 14 days of the date of issue of the Returns Authorisation Number. The notification shall include the reason for the return, e.g. whether the Goods are defective or have been wrongly picked. The Buyer has no right to return Goods which have been delivered in accordance with the contract.

18.3 Goods returned must be in the original packaging and in a clean re-saleable condition (subject only to any defects which have been notified to the company in accordance with condition 18.2 above). The returns authorisation number must be written on a label attached to the packaging. Any goods not meeting these criteria may, at our discretion, be refused and returned to the Buyer and/or a handling charge (equal to a minimum of 15% of the order value of the goods involved) will be levied to the Buyer's account to cover the additional costs involved (such as, without limitation, repackaging costs and/or the carriage and associated costs of returning the goods to the buyer). In addition, the Buyer will be charged for any damage caused to the goods whilst they were in the Buyer's custody or control.

18.4 If the Buyer fails to make Goods ready for collection on the return date agreed with the Company, the Company reserves the right to charge the Buyer a handling fee.

18.5 If, upon examination by the Company or the manufacturer, the returned Goods are found not to be defective, the Company reserves the right to return the Goods to the Buyer and to charge the Buyer a handling fee equal to a minimum of 15% of the order value of the relevant Goods. In addition, the Buyer shall be deemed to have purchased the replacement goods on these terms and conditions and the company shall be entitled to invoice the Buyer for the replacement goods.

19 The Company shall not be responsible for the loss in transit of any Goods where the Buyer makes its own arrangements to return the Goods to us.

20 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the contract between the Company and the Buyer for the sale and purchase of Goods.

Export Control

21 The Buyer shall not resell outside the UK any of the Products covered by the Export of Goods (Control) Order 1987 (or any re-enactment thereof) or the Export Administration Act 1979 (as amended) of the USA (or any re-enactment thereof) without obtaining all necessary licences thereunder and will not resell such goods within the UK to a purchaser knowing (or being given reasonable grounds to suspect by the purchaser) that the purchaser intends to export such goods without first obtaining either such licences or a copy of such licences obtained by the purchaser.

Force Majeure

22 The Company reserves the right to cancel, vary or suspend the operation of a contract of sale if events occur which are in the nature of force majeure including (without prejudice to the generality of the foregoing) fire, floods, storm, explosion, epidemic, plant breakdown, strikes, lockouts, riot, hostilities, governmental actions,

war or national emergency, acts of terrorism, protests, non-availability of materials or supplies or any other event outside the reasonable control of the Company; and the Company shall not be held liable for any breach of contract resulting from such an event.

The Company's Remedies

23 The Company may withhold or cancel further or any deliveries under the contract of sale and may recover all losses resulting therefrom if the Buyer:

23.1 Fails to make payment on the due date under any contract with the Company, or

23.2 Suffers any of the circumstances set out in section 10 above, or

23.3 Is in breach of any of the terms and conditions contained herein (notwithstanding that on a former occasion or occasions it has waived its rights). The exercise of rights under this condition 23 shall be without prejudice to the Company's other rights or remedies.

General

24 If any provision of the Contract is found by any court or body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable that part of the provision shall be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

Third Party Rights

25 The Company and the Buyer do not intend that any term of the contract between us shall be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person that is not a party to it.

Law

26 The contract between the Company and the Buyer to which these terms and conditions apply shall be governed by the laws of England and the parties agree to submit to the non-exclusive jurisdiction of the English Courts.