



## Daisy Terms & Conditions for the Provision of CloudSelect Data Services – April 2012

### 1. DEFINITIONS

1.1 In these Conditions the following terms shall have the following meanings:-

“**Additional Charges**” the charges payable by the Customer to the Company for the Additional CloudSelect Services;

“**Additional CloudSelect Services**” means services additional to the CloudSelect Core Services and CloudSelect Upgrade Services (including without limitation back-up services and firewalls) in each case as detailed on an Order Form.

“**Anti-Bribery Laws**” means any and all statutes, statutory instruments, bye-laws, orders, directives, treaties, decrees and laws which relate to the anti-bribery and/or anti-corruption, including the Bribery Act;

“**Bribery Act**” means the Bribery Act 2010;

“**Business Day**” means any and all days between Monday and Friday in any week but excluding English bank holidays or public holidays;

“**Charges**” means the Core Charges, Upgrade Charges and the Additional Charges and any other charges payable by the Customer under the Contract;

“**CloudSelect Data Service Level Agreement**” the service level agreement applicable to the CloudSelect Core Services, the current version of which is set out [www.daisygroup.com](http://www.daisygroup.com) or at such other URL as is notified to the Customer by the Company from time to time;

“**CloudSelect Data Services Acceptable Usage Policy**” the Company’s acceptable usage policy for the Services, the current version of which is set out at [www.daisygroup.com](http://www.daisygroup.com) or at such other URL as is notified to the Customer by the Company from time to time;

“**CloudSelect Core Services**” means the core data services products detailed in the Order Form;

“**CloudSelect Upgrade Services**” means upgrades to the CloudSelect Core Services which are detailed in the Order Form or which the Company provides to the Customer following a request through the Portal;

“**Company**” means Daisy Communications Limited a company registered in England and Wales with registration number 4145329 whose registered office is Daisy House, Lindred Road, Business Park, Nelson, Lancashire BB9 5SR and the expression “Company” includes the Company’s assignees;

“**Company Content**” means Content the Company or any of its Group make available in connection with the Services to allow access to and use of the Services, including without limitation the Portal (and everything contained therein);

“**Content**” means software (including machine images), data, text, audio, video, images or other content;

“**Commencement Date**” means the date the Company has notified to the Customer will be the date upon which the provision of the Services commences or if later, the date which the Company makes the Services available to the Customer;

“**Contract**” means the agreement between the Customer and the Company for the provision of the Services (or any of them) incorporating these Conditions;

“**Core Charges**” means the charges payable for the CloudSelect Core Services;

“**Customer**” means the person, firm or company specified on the Order Form and any other person reasonably appearing to act within that person’s, firm’s, or company’s authority and includes where relevant the Customer’s permitted assigns employees and agents;

“**Customer Content**” Content which the Customer or any User: (a) runs on the Services, (b) causes to interface with the Services, or (c) uploads to the Services or otherwise transfers, processes, uses or stores in connection with the Services;

“**Group**” means each and any Parent Undertaking or Subsidiary Undertaking of the Company and each and any subsidiary of a Parent Undertaking of the Company. “**Parent Undertaking**” and “**Subsidiary Undertaking**” shall have the meanings given to them in section 1162 of the Companies Act 2006;

“**Intellectual Property Rights**” all intellectual property rights including patents, know-how, registered trade marks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trade marks, rights to prevent passing off for unfair competition, copyright, database rights, topography

rights and any other rights in any invention, discovery or process, in each case in the United Kingdom and all other countries in the world and together with all renewals and extensions;

“**Minimum Term**” means the minimum contract period applying to a CloudSelect Core Service or Additional Service beginning on the Commencement Date and expiring on the day after the end of the Minimum Term set out on the Order Form;

“**Normal Working Hours**” means 9.00am to 5.00pm on any Business Day;

“**Order Form**” means any order form to which these Conditions are attached or which is expressed to be subject to these Conditions which sets out the details of the order, including (without limitation) the Customer’s details and the Services to be supplied from the Commencement Date;

“**Portal**” means the portal and/or any application programme interface which the Customer is provided (subject to these Conditions) with access to as part of the CloudSelect Core Services;

“**Relevant Laws**” means any statute, regulation, by law, ordinance or subordinate legislation which is in force for the time being to which a party is subject; the common law as applicable to the parties (or any one of them); any binding court order, judgment or decree applicable to the parties (or any one of them); and any applicable industry code, policy, guidance, standard or accreditation terms (i) enforceable by law which is in force for the time being, and/or (ii) stipulated by any regulatory authority to which a party is subject, in each case, for the time being;

“**Services**” means any of the services supplied by the Company to the Customer, including without limitation, the CloudSelect Core Services, CloudSelect Upgrade Services and Additional Services (as applicable);

“**Tariff**” means the Company’s tariff for the Core Service Charges and Upgrade Charges payable by the Customer from time to time, as set out in the Portal or as otherwise notified to the Customer by the Company from time to time;

“**Upgrade Charges**” the usage based charges payable by the Customer to the Company for the CloudSelect Upgrade Services; and

“**User**” means any individual or entity that directly or indirectly through another user: (a) accesses or uses Company Content and/or or Customer Content; or (b) otherwise accesses or uses the Services provided under the Contract.

### 2. CONTRACT FORMATION

2.1 The Order Form constitutes the Customer’s offer to the Company to purchase the Services on and subject to the terms of the Order Form and these Conditions. Once such offer is accepted by an authorised representative of the Company signing the Order Form, a Contract shall come into effect. The details recorded on the Order Form, together with these Conditions shall be the exclusive terms and conditions of the Contract between the parties (to the fullest extent permitted by law) and any such Contract shall be conditional upon condition 4.1.1 and the credit status of the Customer being to the satisfaction of the Company (in its sole and absolute discretion).

2.2 All quotations, estimates and tenders are given and contracts are made by the Company subject to and only upon these Conditions which cannot be varied unless agreed in writing by the Company and these Conditions supersede and override all other terms and conditions appearing elsewhere including (without limitation) any terms and conditions:

2.2.1 of the Customer referred to on any website or which the Customer may purport to apply under any purchase order or acknowledgement of delivery or similar document; and/or

2.2.2 established between the Company and the Customer by course of dealing.

2.3 In the event of a conflict between these Conditions and the Order Form, the Order Form will prevail.

2.4 Any illustrations, samples or descriptive material provided by the Company, including drawings, specifications of weight, capacity or dimensions and particulars of shade shall not form part of the Contract but shall be treated as approximate only unless specifically stated otherwise. Any savings quoted are estimates only. All documents containing such illustrative or descriptive material (as well as the copyright therein) shall remain the exclusive property of the Company or its licensors and must not be copied or loaned or transferred. The Customer acknowledges and agrees that in entering into the Contract, it has not relied on any such illustrations, samples or descriptive material.

2.5 No variation of the terms of the Contract however notified (save with regard to the manuscript details on the Order Form including, where initialled by both parties, manuscript amendments to the type face, as such details may be inputted by authorised staff of the Company) will be accepted by the Company unless authorised by notice in writing by a Director of the Company.

2.6 Any undertaking by the Customer not to do any act or thing shall be deemed to include an undertaking that the Customer shall procure that any User of the Services (or any part thereof), to include (without limitation) any employee, officer, agent or contractor, shall not do such act or thing.

2.7 The Customer warrants and undertakes to the Company that it is entering into the Contract for the purposes of its trade, business and/or profession.

### **3. CUSTOMER'S ORDER AND SPECIFICATIONS**

3.1 The Customer shall be responsible for providing the Company with all information relevant to the supply of the Services with sufficient time to enable the Company to duly perform the Contract.

3.2 Without limitation to the generality of condition 3.1, the Customer shall be responsible for ensuring that the details set out on the Order Form and any drawings, sketches, specifications, descriptions or other instructions supplied by the Customer or any agent or representative of the Customer in connection with the supply of any of the Services by the Company are accurate and fully describe the Customer's requirements and the Customer shall be liable in respect of any liability, loss, injury, damage, demand, claim, cost charge or expense which may be incurred or sustained by the Company by reason of or arising directly or indirectly out of or in respect of any inaccuracy in respect of any such drawings, sketches, specifications, descriptions or other instructions in relation thereto, or where the compliance with any such any drawings, sketches, specifications, descriptions or other instructions by the Company constitutes the infringement of the intellectual property or other rights of another person.

### **4. THE SERVICES**

#### **4.1 GENERAL**

4.1.1 Any Contract for the provision of Services based on an order which is accepted by the Company pursuant to condition 2.1 is, until the Commencement Date, conditional on the Company providing confirmation by email to the Customer that the terms stated on the Order Form of the applicable Contract do not contain any errors or omissions. For the avoidance of doubt;

(a) to purchase CloudSelect Upgrade Services under a Contract, the Customer must also purchase CloudSelect Core Services under the same Contract; and

(b) to purchase Additional Services, CloudSelect Core Services must also be purchased by the Customer under the same or another Contract.

4.1.2 The provision of any assistance or services in relation to the Customer's migration or transfer to the Services is expressly excluded from the scope of the Services and the Contract. The Company makes no warranty or other representation about the suitability of the Services for the Customer's requirements and the Services are provided 'as-is'. By entering into the Contract the Customer warrants and represents to the Company that it has independently satisfied itself that the Services are suitable for its requirements and without reliance on any representation, whether written or oral made by the Company or any of its representatives.

4.1.2 In consideration for the payment of the Charges by the Customer, the Company shall use its reasonable endeavours to provide the Services in accordance with and subject to the terms of the Contract.

4.1.2 The Company shall provide the Services using reasonable skill and care.

4.1.3 The Company shall use reasonable efforts to provide the Services in accordance with the CloudSelect Data Service Level Agreement. The Company may change the CloudSelect Data Service Level Agreement at any time by publishing the changes on its website (at [www.daisygroup.com](http://www.daisygroup.com) or at such other URL as is notified to the Customer by the Company from time to time) thirty days before the change is to take effect. The Customer's sole and exclusive remedy (if any) for breach of the SLA shall be the payment of service credits in accordance with the CloudSelect Data Service Level Agreement.

4.1.4 The Company provides no guarantees that the provision of the Services shall be uninterrupted or fault free nor does it provide any commitment regarding the availability of

the Services to the Customer or Users (whether such Services are included on the Order Form or subsequently requested by the Customer or Users through the Portal).

4.1.5 Notwithstanding anything to the contrary in the Contract, the Company shall be entitled to make changes to the Services (or any part thereof) which do not have a material adverse effect on the Services and shall where the Company deems it practical to do so, give the Customer written notification of the same.

#### **4.2 UNAVAILABILITY**

4.2.2 The Customer acknowledges and accepts that:

(b) the Company provides no guarantees or other commitments regarding the timeliness within which the Services shall be provided (time not being of the essence in relation to the provision of the Services and/or the performance of any of the Company's obligations under the Contract); and

(b) subject to condition 13.5, the Company hereby disclaims any and all liability to the Customer in respect of any loss or damage suffered by it as a result of the Services being unavailable.

#### **4.3 CUSTOMER OBLIGATIONS**

4.3.1 The Customer shall:

(a) be responsible for ensuring that any use of the Services complies with all Relevant Laws;

(b) only use the Services for its internal use and shall not resell or sub-license or attempt to resell or sub-license or otherwise make available the Services (or any part of them) to any third party;

(c) be responsible for the safe custody and safe use by it of the Services and without prejudice to the generality of the foregoing the Customer agrees and undertakes only to use the Services in accordance with such conditions as may be notified to it in writing by the Company from time to time; and

(d) not contravene, and not by any act or omission, cause the Company to contravene, any Relevant Laws.

4.3.2 Both parties agree to fully co-operate with the Police and any other relevant authorities (including but not limited to the Inland Revenue, Trading Standards, the Information Commissioner) in connection with any misuse or suspected misuse of the Services, and the Customer consents to the Company co-operating with any such authority and with any other telecommunications operators in connection with any misuse or suspected misuse or suspected fraudulent activity related to or connected with the Services and agrees, without prejudice to the generality of the foregoing, that the Company will be entitled to divulge the name and address and account information relating to the Customer to such third parties.

4.3.3 To enable Customers to have a better understanding of what is and is not acceptable when using the Services, the Company has developed a CloudSelect Data Services Acceptable Use Policy. The Customer shall (and shall procure that all Users) comply with the CloudSelect Data Services Acceptable Use Policy. The Company may change the CloudSelect Data Services Acceptable Use Policy at any time by publishing the changes on its website (at [www.daisygroup.com](http://www.daisygroup.com) or at such other URL as is notified to the Customer by the Company from time to time) thirty days before the change is to take effect.

4.3.4 The Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Content and shall ensure that the Customer Content complies at all times with the CloudSelect Data Services Acceptable Use Policies and all Relevant Laws and shall not infringe any third party's intellectual property rights.

4.3.5 The Customer will be deemed to have taken any action that it permits, assists or facilitates any person or entity to take related to the Contract, Customer Content or use of the Services. The Customer is responsible for Users' use of Customer Content and the Services. The Customer will ensure that all Users comply with the Customer's obligations under the Contract. If the Customer becomes aware of any violation of its obligations under this Agreement by a User, it will immediately notify the Company and terminate such User's access to Customer Content and the Services.

#### **4.4 SUSPENSION OF THE SERVICES**

4.4.1 Without prejudice to any other right of the Company to suspend or terminate the provision of the Services (or any part thereof), the Company may at its sole discretion elect to suspend forthwith provision of the Services until further notice without further

liability to the Customer either orally (confirming such notification in writing) or in writing in the event that:

- (a) the Customer is in breach of a material term of these Conditions and/or the Contract and/or any other contract between the parties from time to time including but not limited to the Customer's failure to pay Charges (or any of them) to the Company on the due date;
- (b) the Company is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative authority;
- (c) the Company has reasonable grounds to believe that any Service (or any part thereof) is being used fraudulently or unlawfully;
- (d) any maintenance or repair is necessary or required to the relevant network or related systems or equipment.

4.4.2 The Customer shall reimburse to the Company all reasonable costs and expenses incurred by the Company in the implementation of a suspension pursuant to condition 4.4.1 and/or the recommencement of the provision of the Services as appropriate, save in the case of a suspension, pursuant to condition 4.4.1(b).

#### 4.5 NO SUPPORT SERVICE

The provision of support services is expressly excluded from the Services. Where the Customer requires support services, the provision of it by the Company shall be subject to a separate written agreement with the Company including separate terms and conditions and additional charges.

#### 4.6 ACCESS, BACKUPS AND SECURITY

4.6.1 The Customer will not have access to Customer Content hosted using the Services during a suspension or following termination of the Contract.

4.6.2 Subject to condition 4.6.3, the Company shall be under no obligation to perform back-ups and replication of Customer Content. The Customer shall be responsible for maintaining back-ups of all Customer Content.

4.6.3 Where back-up services are expressed to form part of the Additional Services on the Order Form, the Company shall perform back-ups of Customer Content on a periodic basis. Such back-ups shall be made on a snap-shot basis, which means they will only capture Customer Content which is hosted as part of the Services at the time of the backup. The Company may destroy all but the most recent backup and on termination of the Contract shall be entitled to delete all back-ups.

4.6.4 The Customer's sole and exclusive remedy for any failure to comply with condition 4.6.5 shall be for the Company to use its reasonable endeavours to assist the Customer in recovering any Customer Content which has (solely and directly as a result of the Company's failure to comply with condition 4.6.3) been lost or corrupted.

4.6.6 It is the Customer's responsibility to maintain appropriate security and protection of Customer Content, which may include the use of encryption technology to protect Customer Content from unauthorised access.

### 5. PORTAL

#### 5.1 THE PORTAL

5.1.1 Subject to conditions 5.1.4 and 9 and only during the term of the Contract, the Customer shall be provided with a revocable, personal and non-exclusive licence to use the Portal in order for it to manage its requirements for CloudSelect Upgrade Services.

5.1.2 The Company provides no guarantees regarding the availability of CloudSelect Upgrade Services or the timescales within which the Customer's requests for changes to its requirements for CloudSelect Upgrade Services will be processed through the Portal (including without limitation, requests for the commencement of additional CloudSelect Upgrade Services or the ceasing of or reduction in the current CloudSelect Upgrade Services provided to the Company).

5.1.3 The Company does not provide any guarantees or warranties that use of the Portal shall be uninterrupted or error free and (subject to condition 13.5) hereby disclaims any and all liability to the Customer in respect of any loss or damage suffered by it as a result of the Customer or Users' inability to access the Portal or any part thereof.

#### 5.2 RESTRICTIONS

5.3.1 Except as expressly stated in the Contract, the Customer shall have no right (and shall not permit any third party) to copy, adapt, reverse engineer, decompile, disassemble, modify, adapt or make error corrections to the Portal in whole or in part

except to the extent that any reduction of the Portal to human readable form (whether by reverse engineering, decompilation or disassembly) is necessary for the purposes of integrating the operation of the Portal with the operation of other software or systems that the Customer uses.

5.3.2 Other than as set out in the Contract, the Customer shall not:

- (a) sub-license, assign or novate the benefit or burden of any licence to use the Portal and/or any other Company Content either in whole or in part; and
- (b) deal in any other manner with any or all of its rights and obligations under these Conditions, without the Company's prior written consent (such consent to be given or withheld in the Company's absolute discretion).

5.3.3 The Customer shall:

- (a) ensure that the number of persons using the Portal does not exceed the number of Portal licences set out on the Order Form or which the Company subsequently agrees to provide to the Customer pursuant to a request through the Portal; and
- (b) notify the Company as soon as it becomes aware of any unauthorised use of the Portal by any person.

### 6. FINANCE AND CREDIT

The Customer hereby consents to and shall procure that its owners, directors, officers and permitted assigns consent to, the Company carrying out searches with credit reference agencies relating to the credit worthiness of the Customer and/or its owners, directors, officers and permitted assigns and the Customer undertakes to supply or procure the supply of all information requested for a credit search with a credit reference agency, who will add to the Customer's records and/or those records of its directors, officers and permitted assigns details of the searches and these will be seen by other organisations that make searches.

### 7. THIRD PARTY LICENCES

7.1. Save for any express licences granted by the Company to the Customer pursuant to the Contract, the Customer is responsible for maintaining licences and adhering to the licence terms of any software it uses or runs using the Services.

7.2 The Customer shall comply at all times with the provisions of any third party licence terms applicable to any software which is licensed to it as part of the Services.

7.3. Without prejudice to the generality of condition 7.2, as part of the Services, the Customer may be allowed to use certain software (including related documentation) developed and owned by Microsoft Corporation or its licensors (collectively, the "Microsoft Software"). If the Customer chooses to use the Microsoft Software, Microsoft Corporation and its licensors require that it agrees to these additional terms and conditions:

7.3.1 the Microsoft Software is neither sold nor distributed to the Customer shall use it solely as part of the Services;

7.3.2 the Customer shall not transfer or use the Microsoft Software outside the Services;

7.3.3 the Customer shall not remove, modify or obscure any copyright, trademark or other proprietary rights notices that are contained in or on the Microsoft Software;

7.3.4 the Customer shall not reverse engineer, decompile or disassemble the Microsoft Software, except to the extent expressly permitted by applicable law.

7.3.5 The Customer acknowledges and agrees that like the Company, Microsoft Corporation disclaims, to the extent permitted by applicable law, all warranties by Microsoft Corporation and any liability by Microsoft Corporation or its suppliers for any damages, whether direct, indirect, or consequential, arising from the Services and/or the provision of the Microsoft Software.

7.3.6 The Customer acknowledges and agrees that Microsoft Corporation is not responsible for providing any support in connection with the Services and/or the Microsoft Software. The Customer shall not contact Microsoft Corporation for support.

7.3.7 The Customer is not granted any right to use the Microsoft Software in any application controlling aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support systems, implantable medical equipment, motor vehicles, weaponry systems, or any similar scenario (collectively, "High Risk Use"). Microsoft Corporation and its suppliers disclaim any express or implied warranty of fitness for High Risk Use. High Risk Use does not include utilization of the Microsoft Software for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death,

personal injury, or severe physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function.

7.4. Without prejudice to the generality of condition 7.2, as part of the Services, the Customer may be allowed to use certain software (including related support, maintenance, and documentation) developed, owned or provided by Red Hat, Inc. or its licensors (collectively, the "Red Hat Software"). If the Customer chooses to use the Red Hat Software, Red Hat, Inc. and its licensors require that the Customer agrees to these additional terms and conditions:

7.4.1 Red Hat, Inc. disclaims any (i) warranties with respect to the Red Hat Software and (ii) liability for any damages, whether direct, indirect, incidental, special, punitive or consequential, and any loss of profits, revenue, data or data use, arising from the Customer's use of the Red Hat Software;

7.4.2 The Customer's use of the Red Hat Software is subject to the terms and conditions of the Red Hat Cloud Software Subscription Agreement currently located at [www.redhat.com/licenses/cloud\\_cssa/](http://www.redhat.com/licenses/cloud_cssa/) (the "Red Hat CSSA"). By using the Red Hat Software, the Customer hereby agrees to be bound by the terms of the Red Hat CSSA.

## **9 FRAUD AND SECURITY**

9.1 The Customer must ensure that user names and passwords used by it and/or its personnel and/or users in connection with the Services (including without limitation, the Portal) are kept confidential and are only used by authorised users. The Customer will inform the Company immediately if the Customer knows or suspects (or ought reasonably to know or suspect) that a user name or password has been disclosed to an unauthorised user or is being used in an unauthorised way. The Customer will not change or attempt to change a user name without the Company's written consent.

9.2 The Company reserves the right (at the Company's sole discretion):

9.2.1 to suspend user names and password access to the Services and/or the Portal if at any time the Company believes that there has been or is likely to be a breach of security; and

9.2.2 to ask the Customer to (in which case, the Customer shall) change any or all of the passwords the Customer uses in connection with the Services and/or the Portal.

9.3 The Customer will inform the Company immediately of any subsequent changes to the information the Customer supplies to the Company in connection with the Contract.

9.4 The Customer accepts and acknowledges that the Services and the Portal are not guaranteed to be secure and the Company does not guarantee the prevention or detection of any unauthorised attempts to access the Services and the Portal.

9.6 The Company shall not be responsible for any charges resulting from fraudulent and/or unauthorised use of the Services or the Portal by the Customer, its Users or any third parties (who are not employees of the Company) and the Customer agrees to pay all additional charges related to such fraud and/or unauthorised use.

9.7 Any assistance given by the Company in relation to fraud and/or unauthorised use by the Customer or third parties (or its prevention) will be on a reasonable endeavours basis only and no liability can be accepted by the Company for any loss sustained by the Customer via fraudulent and/or unauthorised means that are beyond the Company's reasonable control (save for any fraud and/or unauthorised use by an employee of the Company acting in that capacity).

## **10. CHARGES AND PAYMENT TERMS**

### **10.1 CORE CHARGES**

10.1.1 The Core Charges will be as detailed in the Tariff or unless, and as, stated on the Order Form.

10.1.2 The Core Charges may be billed monthly in advance by the Company (unless stated otherwise on the Order Form).

### **10.2 UPGRADE CHARGES**

10.2.1 The Upgrade Charges will be as detailed in the Tariff or unless, and as, stated on the Order Form.

10.2.2 The Upgrade Charges payable shall be calculated by reference to data recorded or logged by the Company regarding the CloudSelect Upgrade Services provided to the Customer and not by reference to any data recorded or logged by the Customer.

10.2.3 Unless stated otherwise on the Order Form, Upgrade Charges shall be charged in hourly units, rounded up to the next whole hour.

10.2.3 The Upgrade Charges may be billed monthly in arrears by the Company (unless stated otherwise on the Order Form).

### **10.3 ADDITIONAL CHARGES**

10.3.1 The Additional Charges will be as detailed on the Order Form.

10.3.2 The Additional Charges may be billed monthly in advance by the Company (unless stated otherwise on the Order Form).

### **10.4 CHANGES TO CHARGES**

10.4.1 Subject to condition 10.4.2, the Core Charges and Additional Charges shall be fixed for the Minimum Term of the applicable Services.

10.4.2 The Company shall be entitled to increase the applicable Charges (in accordance with conditions 10.4.3 and 10.4.4) in the event that the Company's costs in providing the applicable Services increase as a result of third party suppliers and/or licensors increasing their supply costs (including without limitation, their licence charges).

10.4.3 Subject to conditions 10.4.1 and 10.4.2, the Company shall have the right to alter the Core Charges from time to time by publishing changes to the Tariff in the Portal or in such other place as is notified to the Customer by the Company from time to time. Changes to the charges shall take effect no sooner than 14 days following their date of publication.

10.4.4 The Company may increase the Additional Charges at any time on 14 days' written notice to the Customer such increase shall not (save where the increase is pursuant to condition 10.4.2) take effect prior to the expiry of the Minimum Term of the applicable Additional Services.

10.5 All sums referred to under these Conditions, the Order Form, and in the Tariff 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 rates ruling at the date of the relevant invoice.

10.6 Any invoices issued by the Company in respect of the Charges shall, save in the case of manifest error, be final, conclusive and binding on the Customer.

## **11. PAYMENT**

11.1 The Customer shall pay the Charges by Direct Debit within ten days of the date of the invoice (unless otherwise expressly agreed with the Company and set out on the Order Form).

11.2 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 either the rate of four per cent annum above the current base rate of The Royal Bank of Scotland plc from time to time or, if higher, such rate as the Company would be entitled to claim under the Late Payment of Commercial Debts (Interest) Act 1998 (such interest being deemed to accrue from day to day and being compounded on the last day of each calendar month) from the due date until the date of payment whether before or after judgment.

11.3 Unless e-billing is expressly not required on the Order Form, invoices will be made available for download by the Customer and the Customer will be notified at the e-mail address set out on the Order Form that the invoice is ready for downloading. Where e-billing is expressly not required on the Order Form, the invoice may be sent to the registered address of the Customer (or the address of the Customer) at an additional cost to the Customer as set out in the Tariff.

11.4 If the Company is unable, for whatever reason, to recover any sum due under the Customer's account within four days following the due date for payment, the Company reserves the right to forthwith suspend all or any of the Services.

11.5 If the Customer's account remains unpaid (in any part) 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.

11.6 If the Customer's account remains unpaid (in any part) for a period of thirty days after the original due date for payment, the provision of the Services may then be terminated by the Company.

11.7 Without prejudice to the Company's other remedies, if the Customer's account remains outstanding for any reason after the original due date for payment, then:

11.7.1 the Customer will be charged an administration fee for each piece of correspondence in connection with the recovery of the overdue amount.

11.7.2 the Company reserves the right to refer the outstanding account to a debt collection agency. If the Company instructs a debt collection agency to collect payment (including interest and late payment charges) on its behalf the Customer must pay the Company's costs payable to the agency, who will add the sum to the Customer's outstanding debt.

11.8 The Customer will ensure that the name of the account holder is the same as the name on the payment details provided.

11.9 If the Customer cancels an active Direct Debit instruction once a Contract has commenced, an additional administration fee will be added to the monthly invoice of £3.50 (or such other amount as may be notified to the Customer by the Company from time to time) until the Direct Debit is reinstated. The Company also reserves the right to charge the Customer a Direct Debit cancellation fee at its then applicable rate.

11.10 The Company may, without notice, withhold any payments due to the Customer under the Contract or any other agreement between the Company or any other member of its Group and the Customer if:

11.11.1 the Company has reason to believe the Customer is in breach of the Contract; and/or

11.11.2 the Customer is (or the Company reasonably believes that the Customer is) conducting its business or using the Services illegally or unlawfully or for an illegal or unlawful purpose.

11.12 If any sum owed by the Customer to the under the Contract or any other 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 Customer under the Contract or any other contract with the Company.

11.13 Payment of all sums due to the Company shall be made without any set-off whatsoever.

11.14 If the Customer intends to dispute any charge on an invoice, the Customer must do so in writing to the Company within fourteen days of the date of the invoice and provide the Company with all relevant information in support of the disputed charge. Where the disputed charge(s) amount to:

11.15.1 less than five per cent of the total charges listed on the invoice, the Customer will pay the full amount of the invoice; or

11.15.2 more than five per cent of the total charges listed on the invoice, the Customer must pay the remaining amount of the invoice that is not in dispute.

## **12. DISPUTE RESOLUTION**

12.1 The Company will attempt to resolve any dispute that the Customer may have with the Company.

12.2 Any dispute must be submitted in writing to the Company's Customer Care Centre at Daisy House, Lindred Road Business Park, Nelson, Lancashire, BB9 5SR.

12.3 Nothing in this condition 12 shall prevent the Customer or the Company from exercising any rights and remedies that may be available in respect of any breach of the provisions of the Contract.

## **13. LIMITATION OF LIABILITY**

13.1 Unless otherwise stated in these Conditions, the Company makes no warranty in respect of the supply of the Services (or any part thereof) and all other warranties which by reason of statute or other direction, regulation or governmental authority may be implied into a contract for the supply of the Services (or any part thereof) are hereby excluded to the fullest extent possible, save for, and to the extent of, those warranties which cannot lawfully be excluded. If the Customer is a consumer, this shall be without prejudice to its statutory rights.

13.2 Subject to conditions 13.3 and 13.5 in no circumstances shall the Company's liability, arising under or in connection with this Contract and whether in contract, tort (including without limitation negligence) breach of statutory duty or otherwise, to the Customer exceed 110% of the Charges paid for the Services in the 12 months prior to the date on which the claim or claims arose.

13.3 Subject to condition 13.5, under no circumstances shall the Company be liable in any event under or in connection with the Contract and whether in contract, tort (including negligence) or otherwise for any:

13.3.1 loss of revenue;

13.3.2 loss of business;

13.3.3 loss of contracts;

13.3.4 loss of, damage to or corruption of data;

13.3.5 loss of anticipated savings;

13.3.6 loss of profits; or

13.3.7 any indirect, consequential or special losses whether or not the Company knew or ought to have known that such losses or damages might be incurred.

13.4 Neither party shall be liable to the other party for any breach of any provision of the Contract (whether in breach of contract, tort (including but not limited to negligence), or otherwise) caused by any reason outside the reasonable control or responsibility of that party including, without limitation, the failure of or unavailability of any mobile network, vandalism, accidental damage, any Act Of God, terrorist attacks, inclement weather, failure or shortage or power supplies, flood, drought, lightning or fire, strike, lock-out, trade dispute or labour disturbance, any act or omission of Government, highways authorities, or other competent authorities.

13.5 Nothing in these Conditions excludes or restricts either party's liability for:

13.5.1 death or personal injury resulting from that party's negligence or its employee's negligence (while acting in the course of their employment);

13.5.2 any fraud, fraudulent misrepresentation or fraudulent misstatement;

13.5.3 any indemnity given under the Contract; and/or

13.5.4 for anything for which the parties cannot at law limit or exclude their liability.

13.6 The Customer agrees that any cause of action that it may have against the Company and/or any of its Group members (including, its (or their) affiliates, directors, officers, agents, consultants and employees) must commence within two years after the cause of action arose, otherwise, the Customer's cause of action is permanently barred.

## **14. CUSTOMER'S INDEMNITY**

Without prejudice to any other rights of the Company, the Customer will indemnify, keep indemnified and hold harmless the Company from and against all costs (including without limitation the cost of enforcement (on a full indemnity basis)), liabilities, claims, damages, direct, indirect or consequential loss (all three of which include without limitation, pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), expenses and/or judgments which the Company suffers as a consequence of the Customer breaching conditions 4.3, 5, 7, 9, 16, 18 and/or 20 (including in each case the extent that any losses result from third party claims).

## **15 TERM, TERMINATION AND CONSEQUENCES**

15.1 Subject to these Conditions, the term of a CloudSelect Core Service and Additional Service will commence on the Commencement Date and shall continue for the applicable Minimum Term and thereafter. Without prejudice to the Minimum Term for the CloudSelect Core Services and Additional Services, the CloudSelect Upgrade Services shall have no Minimum Term.

15.2 Subject to conditions 15.3 and 15.4, upon the expiry of the Minimum Term, or any renewal thereof (as applicable), the Contract for a particular CloudSelect Core Service and Additional Service (as applicable) will renew automatically for further periods equivalent to the length of the original Minimum Term for that Service.

15.3 In respect of any CloudSelect Core Service or Additional Service with a Minimum Term of twelve or more months, the Customer may terminate that CloudSelect Core Service by giving ninety days' notice in writing to the Company, such notice to become effective no earlier than the day after the last day of the Minimum Term or upon each anniversary of such date thereafter where the term has automatically renewed in accordance with condition 15.2.

15.4 In respect of any CloudSelect Core Services and/or Additional Service with a Minimum Term of less than 12 months, the Customer may terminate that CloudSelect Core Service by giving thirty days' notice in writing to the Company, such notice to become effective no earlier than the day after the last day of the Minimum Term.

15.5 Unless otherwise agreed by the Company in writing, service of notice to terminate a CloudSelect Core Service by the Customer pursuant to condition 15.4 and/or 15.5 shall be deemed service of notice to terminate any CloudSelect Upgrade Services or Additional Services which are provided to the Customer (whether under the same or another Contract) at the effective date of termination ("**Termination Date**") (such termination of the Additional Services and/or CloudSelect Upgrade Services also taking

effect on the Termination Date). Nothing in these Conditions shall entitle the Customer to a refund of any Charges paid in advance to the Company.

15.5 Subject to condition 15.8 below, the Customer shall not be entitled to change or cancel an order or otherwise to terminate a Contract (once the order has been accepted by the Company) unless otherwise agreed in writing with the Company (and any implied right to terminate for convenience that the Customer may have under applicable law is hereby expressly excluded).

15.6 In the event of any termination by the Customer, the Customer shall indemnify the Company in full against all loss (including, but not limited to, all losses incurred by the Company as a result of the Customer terminating the Contract before the end of the Minimum Term or where the Contract has continued beyond the Minimum Term before the end of the relevant notice period, which will include a minimum payment to the Company of the amount of the Charges that would have been payable by the Customer had the Contract continued for the Minimum Term and/or the relevant notice period (as the case may be)), costs, damages, charges and expenses incurred by the Company as a result of such termination.

15.7 Without prejudice to any other rights of the Company under these Conditions or otherwise, the Company shall be entitled at any time and for any reason whatsoever to terminate any Contract on the giving of not less than thirty days' written notice to the Customer, without further liability to the Customer. For the avoidance of doubt, in the event that the Company terminates a Contract under this condition 15.7, the Customer's liability to pay the Charges shall end on the date of termination of the relevant Contract and the Customer shall not be liable to pay for the Charges applicable for the remainder of any Minimum Term applicable in respect of that Contract.

15.8 A Contract may be terminated forthwith by either party by notice in writing if the other party materially breaches its obligations under these Conditions (including without limitation non-payment of charges due) and in the case of breaches which are capable of remedy such party fails to remedy such breach within fourteen days of written notice by the other party of what the breach is and requesting that the breach is remedied. Without prejudice to the generality of the foregoing, the Company shall be permitted to terminate the Contract forthwith on notice to the Customer in the event that the Customer is in material breach of any other contract under these Conditions (as in force from time to time) and which breach, if capable of remedy, has not been remedied within fourteen days of written notice by the Company of what the breach is and requesting that the breach is remedied.

15.9 Notwithstanding anything to the contrary expressed or implied in these Conditions, either party (without prejudice to its own rights) may terminate all Contracts forthwith in the event that a liquidator (other than for the purpose of solvent amalgamation or reconstruction) trustee in bankruptcy, administrator or receiver is appointed in respect of the whole or part of the assets and/or undertaking of the other party or the other party enters into an arrangement or composition with its creditors, or other circumstances arise which entitle a court or creditor to appoint a receiver or administrator or to make a winding up order (save as in respect of a solvent reconstruction of such relevant party's group of companies).

15.9 Without prejudice to any other right of termination under these Conditions, the Company may terminate the Contract forthwith in the event that:

15.9.1 the Company is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative authority;

15.9.2 the Company has reasonable grounds to believe that any Service (or any part thereof) is being used fraudulently or unlawfully;

15.9.4 the Company or any member of its Group is entitled to terminate provision of any other telecommunications or technology service under the terms of any other agreement with the Customer.

15.10 The termination or expiry of the Contract shall be without prejudice to any rights or liabilities which have accrued prior to such expiry or termination. Any provision of this Contract which expressly or by implication is intended to survive, shall survive the termination or expiry of the Contract.

15.11 Nothing in the Contract shall require or otherwise oblige the Company to provide any termination assistance to the Customer, including without limitation the delivery up of any Customer Content and/or co-operation with the Customer or any alternative supplier.

## **16 INTELLECTUAL PROPERTY**

16.1 Unless otherwise agreed between the parties, all Intellectual Property Rights in the Services and the Company Content shall belong, to the Company and/or its licensors. The Company grants the Customer a limited, revocable, non-exclusive, non-sub-licensable, non-transferable licence during the term of the Contract to use the Company Content solely in connection with the Customer's permitted use of the Services in accordance the Contract.

16.2 The Customer shall, at the request and expense of the Company, take all such steps as reasonably required to assist the requesting party to maintain the validity and enforceability of its or its licensor's Intellectual Property Rights.

16.3 The Customer consents to the Company and its Group using the Customer Content to provide the Services. The Company may disclose Customer Content to provide the Services or to comply with any request of a governmental or regulatory body or otherwise to comply with Relevant Laws.

16.4 The Customer undertakes, represents and warrants that:

16.4.1 it or its licensors own all right, title, and interest in and to Customer Content;

16.4.2 it has all rights in Customer Content necessary to grant the rights contemplated by the Contract; and

16.4.3 the Customer Content will not violate the CloudSelect Data Services Acceptable Use Policy.

16.5 The Customer shall not do or authorise any third party to do any act which would or might invalidate or be inconsistent with any Intellectual Property Rights of the Company or its licensors and shall not omit or authorise any third party to omit to do any act which, by its omission, would have that effect or character.

16.6 Other than a licence expressly granted under a Contract, neither party grants any licence of, right in or makes any assignment of any of its Intellectual Property Rights. In particular, except as expressly provided in a Contract, neither party shall have any rights in respect of any trade names or trade marks used by the other party or their associated goodwill, and each party hereby acknowledges that all such rights and goodwill shall inure for the benefit of and are (and shall remain) vested in, the other party.

## **17 CALL MONITORING**

The Customer agrees that the Company may monitor and record calls made to or by the Company by or to the Customer (and/or any of their employees or personnel), for training purposes, to improve the quality of its customer services and to assist with complaint handling. The Customer undertakes to make its employees and personnel aware of the rights reserved by the Company under this condition.

## **18 CONFIDENTIALITY AND USE OF CUSTOMER'S INFORMATION AND DATA FAIR PROCESSING NOTICE**

18.1 The Company and the Customer will keep in confidence any information of the other whether written or oral, of a confidential nature obtained under or in connection with the Contract except to the extent any disclosure is required by law. The Customer and the Company will not, without the consent of the other, disclose such information to any person other than:

18.1.1 their employees, contractors or professional advisers who shall require the information in order for the Customer or the Company to fulfil its obligations under the Contract; or

18.1.2 in the case of the Customer, its Users to the extent that they are required to use or access the Services or the Portal.

18.2 Information shall not be treated as confidential if it is:

18.2.1 lawfully in the public domain; or

18.2.2 lawfully in the possession of the Customer or the Company before disclosure from the other has taken place; or

18.2.3 obtained from a third person who is entitled to disclose it; or

18.2.4 replicated independently by someone without access or knowledge of the information.

18.3 If the Customer receives a request under the Freedom of Information Act 2000 which encompasses any information provided to the Customer by the Company in

connection with the Contract the Customer will notify the Company immediately of the request and give the Company at least ten Business Days to make representations before releasing the requested information (save to extent otherwise required by law).

18.4 The Customer acknowledges and agrees that the Company may use Personal Data (as defined within the Data Protection Act 1998) and/or confidential information obtained from the Customer during or following the completion of the Order Form or as a result of the Customer's use of the Services or the Portal or out of the provision of the Services for the following purposes:

18.4.1 administering the Customer's account (including sharing the information with the Customer's Group as required);

18.4.2 notifying the Customer of changes to the Services, including (without limitation and unless stated otherwise on the Order Form) contacting the Customer regarding potential and/or actual enhancements to or offers in relation to the Services;

18.4.3 enabling the Company to supply the Services to the Customer; and

18.4.4 for invoicing purposes.

18.5 The Company will not pass Personal Data obtained from the Customer to any third parties for marketing purposes, but may send the Customer information about the Company's (or any member of its Group) own products and services which it considers may be of interest to the Customer, unless the Customer specifically requests in writing that the Company does not do so on the Order Form or otherwise.

18.6 If the Customer wishes to have details of the credit reference or the fraud prevention agencies the Company uses to obtain information about the Customer, or receive a copy of the information the Company holds about them, it may do so by submitting a request in writing for a copy of the information to the Company's Data Controller at Daisy House, Lindred Road Business Park, Nelson, Lancashire, BB9 5SR, stating the Customer's full name, address, account number and phone number. The Company may charge a reasonable administration fee for providing such information.

18.7 The Customer warrants, undertakes and agrees that it will grant or procure from its employees and other personnel such consents to the use of Personal Data (referred to above) as may be necessary to enable the Company to use such data for the purposes described in this condition 18.

### **19 CHANGES TO THE CONDITIONS AND CONTRACT**

19.1 The Company may change the Conditions at any time and will publish any change in line with condition 19.2.

19.2 The Company will publish any changes to the Conditions online at [www.daisygroup.com](http://www.daisygroup.com) (or at such other URL as the Customer is notified of by the Company from time to time) at least fourteen days before the change is to take effect.

19.3 The Company may, if requested by the Customer, provide additional services to be included within the Services under such additional terms and conditions as may be notified from time to time.

### **20 ANTI-BRIBERY**

20.1 The Customer shall, and shall procure that its officers, employees, agents and any other persons who perform the services for and on behalf of it in connection with a Contract shall;

20.1.1 comply with all applicable Anti-Bribery Laws;

20.1.2 not offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act;

20.1.3 comply with the Company's Ethics and Anti-bribery Policy (available at [www.daisygroup.com/why-daisy/compliance/](http://www.daisygroup.com/why-daisy/compliance/) or at such other URL as is notified to the Customer by the Company from time to time) as the Company may update them from time to time ("**Relevant Policies**");

20.1.4 have and shall maintain in place throughout the term of all Contracts its own policies and procedures, including adequate procedures under the Bribery Act, to ensure compliance with the Anti-Bribery Laws and the Relevant Policies, and will enforce them where appropriate;

20.1.5 not do or omit to do any act or thing which constitutes or may constitute an offence under Anti-Bribery Laws;

20.1.6 not do or omit to do any act or thing which causes or may cause the Company and/or its Group to be in breach of and/or commit an offence under any Anti-Bribery Laws;

20.1.7 without prejudice to condition 20.1.6, not do or omit to do any act or thing which causes or may cause the Company or any member of the Company's Group to be guilty of an offence under section 7 Bribery Act (or would or may do so if the Company was unable to prove that it had in place adequate procedures designed to prevent persons associated with it from undertaking such conduct); and

20.1.8 provide the Company and any member of the Company Group (at the Customer's cost) with such reasonable assistance as it may require from time to time to enable it to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with any Anti-Bribery Laws.

20.2 The Customer shall:

20.2.1 promptly report to the Company and any member of the Company's Group any request or demand for any financial or other advantage of any kind received in connection with the performance of the Contract by it or by its officers, employees, agents or any other person who performs the services for or on behalf of it in connection with the Contract; and

20.2.2 upon request, certify in writing signed by a director of the Customer that the Customer has complied with all of its obligations under this condition 20. The Customer shall provide such supporting evidence of compliance as Company or any member of the Company's Group may reasonably request.

20.3 The Customer warrants to the Company and all members of the Company's Group that it has not, and its officers, employees, agents and any other persons who perform the services for or on behalf of it in connection with the Contract have not breached any applicable Anti-Bribery Laws; been convicted of any offence involving bribery, corruption, fraud or dishonesty; offered, promised, given, requested, agreed to receive, received or accepted a bribe or financial or other advantage or committed any corrupt act; done or omitted to do any act or thing which constitutes or may constitute an offence under the Anti-Bribery Laws; done or omitted to do any act or thing which caused or may cause any person to be in breach of and/or commit an offence under any Anti-Bribery Law; done or omitted to do any act or thing which caused or may cause any person to be guilty of an offence under section 7 Bribery Act; or given any financial or other advantage, inducement or reward to any person in connection with the awarding or continuation in force of this Contract.

20.4 The Company and/or any member of the Company's Group may terminate the Contract immediately if the Customer is in breach of any of its obligations under this condition 20 or if the Company or any member of the Company's Group has reasonable cause to believe that such a breach has occurred or may occur. If the Company or any member of the Company's Group terminates the Contract in accordance with this condition 20.4, the Customer shall not be entitled to claim any compensation or any further remuneration from the Company or any member of the Company's Group.

### **21 GENERAL**

21.1 No forbearance or indulgence shown or granted by the Company to the Customer whether in respect of these Conditions or otherwise shall in any way affect or prejudice the rights of the Company against the Customer or be regarded as a waiver of any of these Conditions.

21.2 The Contract (including in relation to non-contractual matters) shall be governed by and construed in all respects in accordance with English law and the Customer hereby submits for all purposes of and in connection with the Contract to the exclusive jurisdiction of the English Courts (including in relation to non-contractual disputes).

21.3 The Contract is made for the benefit of the parties to it and (where applicable) their successors and permitted assigns and is not intended to benefit, or be enforceable by, anyone else and no third party shall have any right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

21.4 Any notice, invoice or other document which may be given by either party under the Contract shall be in writing (except as provided otherwise) sent for the attention of the relevant person, and to the address or fax number, given on the Order Form (or such other address, fax number or person as the relevant party may notify to the other party) and shall be delivered personally, sent by fax or sent by pre-paid, first-class post or recorded delivery. A notice is deemed to have been received, if delivered personally, at the time of delivery, in the case of fax, at the time of transmission, in the case of pre-paid

first class post or recorded delivery, 48 hours from the date of posting or if earlier upon receipt and, if deemed receipt under this condition 21.5 is not within Normal Working Hours, at 9.00 am on the first Business Day following delivery. To prove service, it is sufficient to prove that the notice was transmitted by fax, to the fax number of the party or, in the case of post, that the envelope containing the notice was properly addressed and posted.

21.5 Any director or representative of the Customer who signs on behalf of the Customer will be deemed an authorised signatory and thereby the Company shall be entitled to rely on such signatory as binding the Customer to the obligations set out in these Conditions in all respects.

21.6 The Customer shall not, without the prior written consent of the Company, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

21.7 The Company may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract without the consent of the Customer however, the Customer shall, if the Company requires, execute such deeds and/or documents as may be necessary or required by the Company to give effect to any such dealing in such rights and/or obligations.

21.8 Unless specifically provided otherwise, rights arising under the Contract are cumulative and do not exclude rights provided by law.

21.9 The Customer shall not, without the prior written consent of the Company, at any time from the date of the Contract to the expiry of six months after the termination or expiry of the Contract (or in the case of multiple Contracts the last Contract to be terminated or expire), actively solicit or entice away from the Company, or actively employ or attempt to employ (save where the relevant person has responded to a general advertisement by the Customer for the relevant job vacancy), any person who is, or has been, engaged as an employee or sub-contractor of the Company in the provision of the Services to the Customer. Any consent given by the Company in accordance with this condition 21.9 shall be subject to the Customer paying to the Company a sum equivalent to twenty per cent of the then current annual remuneration of the Company's employee or sub-contractor or, if higher, twenty per cent of the annual remuneration to be paid by the Customer to that employee or sub-contractor.

21.10 The Customer acknowledges and agrees that details of the Customer's name, address and payment record may be submitted to a credit reference agency, and Personal Data will be processed by and on behalf of the Company in connection with the Services.

21.11 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions will remain in force.

21.12 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted or modified, that provision will apply with whatever minimum modification is necessary to make it valid, enforceable and legal whilst still giving effect to the commercial intention of the parties.

21.13 Save where the context otherwise requires, in these Conditions a reference to a "person" shall include a company, body corporate, unincorporated association, state, governmental or statutory body or authority, and/or a partnership, as well as a natural person (as appropriate).

21.14 Except with the prior written consent of the other party, neither party shall:

21.14.1 make any public statement about the Services or otherwise publicise the Contract or any information relating to it; or

21.14.2 use any trademarks or identifying logos owned or licensed to any member of the other party in any manner.

21.15 Nothing in the Contract is to be construed as establishing or implying any partnership or joint venture between the parties, or as appointing any party as the agent or employee of any other party. No party shall hold out any other party as its partner or joint venturer. Except, and to the extent, that the Contract expressly states otherwise, no party may incur any expenses or negotiate on behalf of any other party or commit any other party in any way to any person without that other party's prior written consent.

21.17 Each party shall do and execute, or arrange and procure for the doing and executing of, any act and/or document reasonably requested of it by any other party to implement and give full effect to the terms of the Contract.

21.18 The Contract may be entered into in any number of counterparts and by the parties on separate counterparts, all of which taken together shall constitute one and the same instrument.