

# General Terms and Conditions

## 1 INTERPRETATION

### 1.1 Definitions.

In this Agreement, the following definitions apply:

- 1.1.1 **Agreement:** these terms and conditions as amended from time to time in accordance with clause [14](#);
- 1.1.2 **Internet Services:** means fibre leased line and next generation broadband services provided by Cedaro Limited to the Customer pursuant to the terms of this Agreement and the Internet Services Terms;
- 1.1.3 **Business Day:** a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
- 1.1.4 **Commencement Date:** has the meaning set out in clause [22](#);
- 1.1.5 **Customer Sales Order** means the Service Agreement and/or Sales Order detailing the agreed Services to be provided by Cedaro Limited to the Customer pursuant to these General Terms and Conditions and any applicable supplemental terms;
- 1.1.6 **Customer:** the person, firm or company who purchases the Equipment and/or Services from Cedaro Limited;
- 1.1.7 **Deliverables:** the deliverables set out in the Customer Sales Order;
- 1.1.8 **Delivery Location:** has the meaning set out in clause [42](#);
- 1.1.9 **Equipment:** the goods (or any part of them) set out in the Customer Sales Order and comprising of Cedaro Limited communication equipment and accessories described in the Standard Customer Sales Order, or replacement equipment thereof, which is provided pursuant to the terms of this Agreement together with any additional equipment which may be agreed between Cedaro Limited and the Customer from time to time;
- 1.1.10 **Equipment Specification:** any specification for the Equipment, including any relevant plans or drawings, that is agreed in writing by the Customer and Cedaro Limited;
- 1.1.11 **Force Majeure Event:** has the meaning given to it in clause [14.1](#);
- 1.1.12 **Initial Hourly Rate:** means the sum of £95.00 +VAT, or such rate as expressly agreed between the parties and stated on the Customer Sales Order;
- 1.1.13 **Intellectual Property Rights:** patents, rights to inventions, copyright and related rights, trade marks, business names and domain names,

rights in get-up, goodwill and the right to sue for passing off, rights in designs, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how), and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

1.1.14 **Internet and Email Acceptable Use Policy:** the internet and email policy the Customer hereby agrees to adhere to pursuant to the terms of this Agreement;

1.1.15 **Internet Services Terms:** the terms and conditions in relation to the provision of a leased line internet connection service;

1.1.16 **Equipment Maintenance:** means any maintenance undertaken by Cedaro Limited to the Customer's faulty or potentially faulty equipment, further details of which are contained in clause [5](#) and clause [9](#);

1.1.17 **Mobile Network Operator:** means the mobile network provider to Telcoinabox Group Limited, facilitating mobile airtime services pursuant to the Mobile Services Terms for the Cedaro Limited to supply the Customer;

1.1.18 **Mobile Services:** mobile phone services provided by Cedaro Limited to the Customer pursuant to the terms of this Agreement and the Mobile Services Terms;

1.1.19 **Mobile Services Terms:** the terms and conditions in relation to the provision of mobile phone services by Cedaro Limited to the Customer;

1.1.20 **Non-Covered Site Visit:** means a visit undertaken by Cedaro Limited representative(s) to a Customer's site in relation to faulty equipment either (a) not covered by any maintenance agreement that may be in place or (b) caused through the Customer's actions;

1.1.21 **Normal Working Hours:** means between 8:30am and 5:30pm Mondays to Friday, excluding Public Holidays;

1.1.22 **Order:** the Customer's order for the supply of Equipment and/or Services, as set out in the Customer Sales Order;

1.1.23 **Response Time:** means in connection with clause [5](#), the maximum time which is within Normal Working Hours, and which elapses between the time when a service request is received and the time when Cedaro Limited carries out the actions listed in clause [5.1](#);

1.1.24 **Service Agreement:** the description or specification for the Services provided in writing by Cedaro Limited to the Customer within the Customer Sales Order, that may include Internet Services, Telephone Services and Mobile Services;

1.1.25 **Services:** the services including the Deliverables, supplied by Cedaro Limited to the Customer as provided for within the Customer Sales Order;

1.1.26 **Standard Daily Fee Rates:** means the

Initial Hourly Rate and Subsequent Hourly Rate charged by Cedaro Limited to Customers in relation Non-Covered Site Visits;

1.1.27 **Subsequent Hourly Rate:** means the sum of £50.00 +VAT, or such rate as expressly agreed between the parties and as stated on the Customer Sales Order;

1.1.28 **Supplier Materials:** has the meaning set out in clause [8.1\(g\)](#);

1.1.29 **Telephone Services:** the calls and lines rental services provided by Cedaro Limited to the Customer pursuant to the terms of this Agreement and the Telephone Services Terms;

1.1.30 **Telephone Services Terms:** the terms and conditions in relation to the provision of mobile phone services by Cedaro Limited to the Customer; and

1.1.31 **Term:** means a minimum term of 24 months commencing on the date of installation / handover, or such term as expressly stated on the Customer Sales Order.

## 1.2 Construction.

In this Agreement, the following rules apply:

1.2.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2 a reference to a party includes its successors or permitted assigns;

1.2.3 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;

1.2.4 any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;

1.2.5 a reference to writing or written includes faxes and e-mails;

1.2.6 the Schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement. Any reference to this agreement includes the Schedules; and

1.2.7 If there is an inconsistency between any of the provisions of this Agreement and the provisions set out in the Schedules, the provisions of this Agreement shall prevail as between the parties.

## 2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Equipment and/or Services in accordance with this Agreement.

2.2 The Order shall only be deemed to be accepted when Cedaro Limited issue is written or electronic acceptance of the Customer Sales Order at which point, and on which date this Agreement shall come into existence (the

“Commencement Date”).

2.3 The Contract constitutes the entire agreement between the parties. The Customer acknowledges that it has not relied on any statement, promise, representation, assurance, or warranty made or given by or on behalf of Cedaro Limited which is not set out in this Agreement.

2.4 Any samples, drawings, descriptive matter, or advertising issued by Cedaro Limited and any descriptions of the Equipment or illustrations, or descriptions of the Services contained in Cedaro Limited's catalogues or brochures are issued or published for the sole purpose of giving an approximate idea of the Services and/or Equipment described in them. They shall not form part of this Agreement or have any contractual force.

2.5 These terms together with the Mobile Services Terms, the Internet Services Terms, Telephone Services Terms and Internet and Email Acceptable Use Policy, apply to this Agreement to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.6 Any Customer Sales Order provided by Cedaro Limited shall not constitute an offer and is only valid for a period of 30 (thirty) days from its date of issue.

2.7 All this Agreement shall apply to the supply of both Equipment and Services except where application to one or the other is specified.

## 3. EQUIPMENT

3.1 The Equipment is described in the Customer Sales Order as modified by any applicable Equipment Specification.

3.2 Cedaro Limited reserves the right to amend the Customer Sales Order if required by any applicable statutory or regulatory requirements.

## 4. DELIVERY OF EQUIPMENT

4.1 Cedaro Limited shall ensure that:

a) each delivery of the Equipment is accompanied by a delivery note which shows the date of the Order, all relevant Customer and Supplier reference numbers, the type and quantity of the Equipment (including the code number of the Equipment, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Equipment remaining to be delivered; and

b) if Cedaro Limited requires the Customer to return any packaging material to Cedaro Limited, that fact is clearly stated on the delivery note. The Customer shall make any such packaging materials available for collection at such times as Cedaro Limited shall reasonably

request. Returns of packaging materials shall be at Cedaro Limited's expense.

4.2 Cedaro Limited shall deliver the Equipment to the location set out in the Order or such other location as the parties may agree (the "**Delivery Location**") at any time after Cedaro Limited notifies the Customer that the Equipment is ready.

4.3 Delivery of the Equipment shall be completed on the Equipment's arrival at the Delivery Location.

4.4 Any dates quoted for delivery of the Equipment is approximate only, and the time of delivery is not of the essence. Cedaro Limited shall not be liable for any delay in delivery of the Equipment that is caused by a Force Majeure Event or the Customer's failure to provide Cedaro Limited with adequate delivery instructions or any other instructions that are relevant to the supply of the Equipment.

4.5 If Cedaro Limited fails to deliver the Equipment, its liability shall be limited to the costs and expenses incurred by the Customer in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Equipment. Cedaro Limited shall have no liability for any failure to deliver the Equipment to the extent that such failure is caused by a Force Majeure Event or the Customer's failure to provide Cedaro Limited with adequate delivery instructions for the Equipment or any relevant instruction related to the supply of the Equipment.

4.6 If the Customer fails to accept or take delivery of the Equipment within 10 Business Days of Cedaro Limited notifying the Customer that the Equipment is ready, then except where such failure or delay is caused by a Force Majeure Event or by Cedaro Limited's failure to comply with its obligations under this Agreement in respect of the Equipment:

- a) delivery of the Equipment shall be deemed to have been completed at 9.00 am on the second Business Day following the day on which Cedaro Limited notified the Customer that the Equipment was ready; and
- b) Cedaro Limited shall store the Equipment until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

4.7 If 10 Business Days after Cedaro Limited notified the Customer that the Equipment were ready for delivery the Customer has not accepted delivery, Cedaro Limited may resell or otherwise dispose of part or all the Equipment and, after deducting reasonable storage and selling costs, account to the Customer for any excess over the price of the Equipment or charge the Customer for any shortfall below the price of the Equipment.

4.8 The Customer shall not be entitled to reject the Equipment if Cedaro Limited delivers up to and including 5 per cent more or less than the quantity of Equipment ordered, but a pro-rata adjustment shall be made to the Order invoice on receipt of notice from the Customer that the wrong quantity of Equipment was delivered.

4.9 Cedaro Limited may deliver the Equipment by instalments, which shall be invoiced and paid for separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in an instalment shall not entitle the Customer to cancel any other instalment.

## **5. QUALITY OF EQUIPMENT AND MAINTENANCE OBLIGATIONS OF CEDARO LIMITED AND CUSTOMER**

### **Maintenance Responsibilities of Cedaro Limited**

5.1 Following a request by the Customer for maintenance service, Cedaro Limited shall, subject to any circumstances beyond its control:

- a) confirm by telephone that the Customer has carried out the procedures necessary to establish that the fault is not external to the Equipment, and if necessary;
- b) interrogate the system via remote access, perform diagnostic routines to determine the exact nature of the reported fault and carry out any remedial action required;
- c) as soon as practicably possible attend the Customer's site and repair or replace the defective Equipment if necessary.

5.2 Response Type shall be as follows: Level 1 during Normal Working Hours within 4 hours. Service response times exclude system configuration changes referred to in clause [5.5](#).

5.3 Cedaro Limited shall make no charge for labour, materials, carriage, or other costs relating to the repair or replacement of the defective Equipment other than the annual amount payable under this Agreement, subject to the provisions of Clause [5](#). All parts or replaced units shall become the property of Cedaro Limited.

5.4 In the event of a fault being reported to Cedaro Limited, which is found to be external to the equipment, then Cedaro Limited reserves the right to make a call-out charge at current service rates.

5.5 Cedaro Limited will provide minor system reconfiguration programming changes per annum, within the scope of this contract. Additional programming works will be charged at current service rates.

### **Warranty & Exclusions**

5.6 Cedaro Limited warrants that on delivery, and for a period of 12 months from the date of delivery (**warranty period**), the Equipment shall conform in all material respects with their description and any

applicable Equipment Specification and be free from material defects.

5.7 Subject to clause [5.8](#), if:

- a) the Customer gives notice in writing during the warranty period within a reasonable time of discovery that some or all of the Equipment do not comply with the warranty set out in clause [5.6](#);
- b) Cedaro Limited is given a reasonable opportunity of examining such Equipment;
- c) Cedaro Limited shall, at its option, repair or replace the defective Equipment, or refund the price of the defective Equipment in full.

5.8 Cedaro Limited shall not be liable for the Equipment's failure to comply with the warranty in clause [5.1](#) if:

- a) the Customer makes any further use of such Equipment after giving a notice in accordance with clause [5.7](#);
- b) the defect arises because the Customer failed to follow Cedaro Limited's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Equipment or (if there are none) good trade practice;
- c) the defect arises as a result of Cedaro Limited following any drawing, design or Equipment Specification supplied by the Customer;
- d) the Customer alters or repairs such Equipment without the written consent of Cedaro Limited;
- e) the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions;
- f) the Equipment differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.

5.9 Except as provided in this clause [5](#), Cedaro Limited shall have no liability to the Customer in respect of the Equipment's failure to comply with the warranty set out in clause [5.6](#).

5.10 The terms of this Agreement shall apply to any repaired or replacement Equipment supplied by Cedaro Limited under clause [5.7](#).

#### **Maintenance Responsibilities of the Customer**

5.11 Where an Equipment Maintenance agreement is in place, an annual service charge will be invoiced in advance and shall be payable by the Customer prior to the Agreement commencement and anniversary dates. Cedaro Limited may alter the Annual Service Charge at any time after having given 42 days prior written notice. The Customer shall pay for any services performed which are not covered by this Agreement at Cedaro Limited's then current service rates.

5.12 Upon arrival of the service engineer at the Equipment location, the Customer shall

- a) provide free access to the Equipment and shall provide such reasonable facilities for the repair as are required by the service engineer. Such facilities shall include, but are not limited to, access to and use for testing purposes of the equipment; and
- b) make available a representative of the Customer to be always present at the site whilst the service is being performed.

5.13 The Customer shall not permit any person other than Cedaro Limited personnel or persons authorised by Cedaro Limited for the purpose to attempt to alter, modify, repair, or change the Equipment in any way.

5.14 The Customer shall inform Cedaro Limited of any change in location of the Equipment following which Cedaro Limited reserves the right to discontinue service or make a variation in the annual maintenance charge.

5.15 The Customer shall take all reasonable precautions to ensure the health and safety of Cedaro Limited personnel whilst on the Customers premises.

#### **6. TITLE AND RISK**

6.1 The risk in the Equipment shall pass to the Customer on completion of delivery.

6.2 Title to the Equipment shall not pass to the Customer until Cedaro Limited receiving payment in full (in cash or cleared funds) for the Equipment and any other goods that Cedaro Limited has supplied to the Customer in respect of which payment has become due, in which case title to the Equipment shall pass at the time of payment of all such sums.

6.3 Until title to the Equipment has passed to the Customer, the Customer shall:

- a) store the Equipment separately from all other goods held by the Customer so that they remain readily identifiable as Cedaro Limited's property;
- b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
- c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price on Cedaro Limited's behalf from the date of delivery;
- d) notify Cedaro Limited immediately if it becomes subject to any of the events listed in clause [13.2\(b\)](#) to clause [13.2\(k\)](#); and
- e) give Cedaro Limited such information relating to the Equipment as Cedaro Limited may require from time to time.

6.4 If before title to the Equipment passes to the Customer, the Customer becomes subject to any of the events listed in clause [13.2\(b\)](#) to clause [13.2\(k\)](#), then, without limiting any other right or remedy Cedaro Limited may have:

- a) the Customer's right to resell Equipment or use them in the ordinary course of its business ceases immediately; and
- b) Cedaro Limited may at any time:
  - (i) require the Customer to deliver up all Equipment in its possession which have not been resold, or irrevocably incorporated into another product; and
  - (ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party where the Equipment is stored in order to recover them.

6.5 For the avoidance of doubt, the title to any Equipment used by the Customer pursuant to a rental contract shall remain with Cedaro Limited.

## **Z. SUPPLY OF SERVICES**

7.1 Cedaro Limited shall provide the Services to the Customer as set out in the Customer Sale Order in all material respects.

7.2 Cedaro Limited shall use all reasonable endeavours to meet any performance dates for the Services specified in the Customer Sales Order, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Services.

7.3 Cedaro Limited shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and Cedaro Limited shall notify the Customer in any such event.

7.4 Cedaro Limited warrants to the Customer that the Services will be provided using reasonable care and skill.

## **8. CUSTOMER'S OBLIGATIONS**

8.1 The Customer shall:

- a) ensure that the terms of the Order and (if submitted by the Customer) the Equipment Specification are complete and accurate;
- b) co-operate with Cedaro Limited in all matters relating to the Services;
- c) provide Cedaro Limited, its employees, agents, consultants and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by Cedaro Limited to provide the Services;
- d) provide Cedaro Limited with such information and materials as Cedaro Limited may reasonably require to supply the Services, and ensure that such information is accurate in all material respects;
- e) prepare the Customer's premises for the

supply of the Services;

f) obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start; and

g) keep and maintain all materials, equipment (including rental handsets to Hosted Telephony Customers), documents and other property of Cedaro Limited (**Supplier Materials**) at the Customer's premises in safe custody at its own risk, maintain Cedaro Limited Materials in good condition until returned to Cedaro Limited, and not dispose of or use Cedaro Limited Materials other than in accordance with Cedaro Limited's written instructions or authorisation.

8.2 If Cedaro Limited's performance of any of its obligations in respect of the Services is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

a) Cedaro Limited shall without limiting its other rights or remedies have the right to suspend performance of the Services until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations to the extent the Customer Default prevents or delays Cedaro Limited's performance of any of its obligations;

b) Cedaro Limited shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Cedaro Limited's failure or delay to perform any of its obligations as set out in this clause [8.2](#); and

c) The Customer shall reimburse Cedaro Limited on written demand for any costs or losses sustained or incurred by Cedaro Limited arising directly or indirectly from the Customer Default.

## **9. CHARGES AND PAYMENT**

9.1 Except as otherwise provided in the Agreement, all Charges, and other sums due from the Customer in respect of the Services and/or Equipment shall be set out in the Customer Sales Order Form and/or the Invoice relating to such Equipment and/or Services.

9.2 The Customer shall pay the Charges (without any set off or deduction of any kind) monthly as stated in the Customer Sales Order Form and/or the invoice. For the avoidance of doubt, all payments shall commence from the date of activation.

9.3 Cedaro Limited states all Charges exclusive of VAT, unless specified otherwise. All Charges not specified in an Order Form shall be at a standard list price. Charges shall do not include the cost of delivery to the UK mainland of any Equipment Cedaro Limited supplies to the Customer.

9.4 The Customer will pay to Cedaro Limited in each case within fourteen (14) days of the date of invoice:

9.4.1 in relation to telephone line rental: monthly in advance;



9.4.2 in relation to Internet Services: monthly in advance; and

9.4.3 in relation to phone call charges: monthly in arrears.

9.4.4 any additional charges at Cedaro Limited's standard rates from time to time in force in respect of any additional services which Cedaro Limited may from time to time provide at the request of the Customer.

9.5 Cedaro Limited shall be entitled from time to time to amend the billing periods and the invoice dates applicable to any charges.

9.6 The Customer will pay the charges and any other amounts due to Cedaro Limited by direct debit or such other method of payment as Cedaro Limited may specify.

9.7 If Customer reasonably and in good faith disputes an invoice or part of it, Customer shall notify Cedaro Limited of such dispute within 14 days of receipt of the invoice, providing details of why the invoiced amount is incorrect and, if possible, how much Customer considers is due. All Charges not in dispute shall be paid by the Due Date.

9.8 Where Cedaro Limited has not received payment for undisputed Charges by the Due Date, Cedaro Limited shall: (i) contact Customer's Accounts Payable Department to request payment; (ii) be entitled to charge interest on the overdue Charges at the bank of England standard base rate, permitted by applicable law; and (iii) be entitled to charge any administration fees or other similar charges levied by a bank in respect of any unpaid items returned by the bank. Where Cedaro Limited has not received payment within 16 calendar days of the Due Date, Cedaro Limited may take all or any of the following actions until such time as payment, including any interest due, has been received.

a) withhold any sums owing to Customer by Cedaro Limited and offset it against any sums Customer owes to Cedaro Limited under this Agreement.

b) suspend Customer's and/or End User's use of the Services in relation to which Charges are outstanding.

c) withdraw any discount in relation to the relevant Equipment or Service and charge Customer the Cedaro Limited's standard list prices for that Equipment or Service; and

d) subject to Cedaro Limited having first invoked at least one of the remedies as set out in Clauses [9.8 \(a\)](#) to [\(c\)](#). Cedaro Limited shall be entitled to terminate this Agreement in whole or in part.

9.9 Failure to make payment within the terms set may result in account suspension and the Customer will incur an administrative charge of £75.00.

9.10 Customer shall not be entitled to offset any sums owed to it by Cedaro Limited under any Agreement or dispute between the Parties

against any sums that Customer owes to Cedaro Limited under this Agreement.

9.11 Cedaro Limited may credit assess Customer from time to time as reasonably required to assess Cedaro Limited's risk. Each credit assessment shall entitle Customer to have a credit limit on Customer's Cedaro Limited account (details of which are available on request).

9.12 If Cedaro Limited is not satisfied as to the creditworthiness of the Customer, it may:

9.12.1 notify the Customer that no further credit will be allowed.

9.12.2 require all Charges owing by the Customer to Cedaro Limited to be paid immediately in cash.

9.12.3 require the Customer to pay Charges in advance.

9.12.4 require the Customer to provide a guarantee as security for payment of future invoices; and/or

9.12.5 require the Customer to pay a deposit.

9.13 Where the Customer does not pay by direct debit, unless Cedaro Limited agrees otherwise, Cedaro Limited will:

9.13.1 charge a payment processing fee of £4.50 (or such other sum as set out in the Price List); and

9.13.2 deduct the payment processing fee from any money received before any payment is allocated against the Charges for the Service.

9.14 The charges for Engineering Services shall be on a time and materials basis:

a) the charges shall be calculated in accordance with Cedaro Limited's Standard Daily Fee Rate;

b) Cedaro Limited's Standard Daily Fee Rate for each individual person are calculated on the basis of an eight-hour day from 9.00 am to 5.00 pm worked on Business Days;

c) Cedaro Limited shall be entitled to charge an overtime rate of 25% of the standard daily fee rate on a pro-rata basis for each part day or for any time worked by individuals whom it engages on the Services outside the hours referred to in clause [9.14\(b\)](#); and

d) Cedaro Limited shall be entitled to charge the Customer for any expenses reasonably incurred by the individuals whom Cedaro Limited engages in connection with the Services including, but not limited to, travelling expenses, hotel costs, subsistence, and any associated expenses, and for the cost of services provided by third parties and required by Cedaro Limited for the performance of the Services, and for the cost of any materials.

a) Cedaro Limited reserves the right to increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to Cedaro Limited that is due to:

- (i) any factor beyond the control of Cedaro Limited (including foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other manufacturing costs);
- (ii) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification; or
- (iii) any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give Cedaro Limited adequate or accurate information or instructions in respect of the Equipment.

9.15 In respect of Equipment, Cedaro Limited shall invoice the Customer on or at any time after completion of delivery.

## **10. INTELLECTUAL PROPERTY RIGHTS**

10.1 All Intellectual Property Rights in or arising out of or in connection with the Services shall be owned by Cedaro Limited.

10.2 The Customer acknowledges that, in respect of any third party Intellectual Property Rights in the Services, the Customer's use of any such Intellectual Property Rights is conditional on the Cedaro Limited obtaining a written licence from the relevant licensor on such terms as will entitle Cedaro Limited to license such rights to the Customer.

10.3 All Supplier Materials are the exclusive property of Cedaro Limited.

## **11. CONFIDENTIALITY**

A party (**receiving party**) shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the receiving party by the other party (**disclosing party**), its employees, agents or subcontractors, and any other confidential information concerning the disclosing party's business, its products and services which the receiving party may obtain.

The receiving party shall only disclose such confidential information to those of its employees, agents and subcontractors who need to know it for the purpose of discharging the receiving party's obligations under this Agreement, and shall ensure that such employees, agents, and subcontractors comply with the obligations set out in this clause as though they were a party to this Agreement. The receiving party may also disclose such of the disclosing party's confidential information as is required to be disclosed by law, any governmental or regulatory authority or by a court of competent jurisdiction. This clause [11](#) shall survive termination of this Agreement.

## **12. LIMITATION OF LIABILITY: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE**

12.1 Nothing in this Agreement shall limit or exclude Cedaro Limited's liability for:

- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;
- b) fraud or fraudulent misrepresentation;
- c) breach of the terms implied by section 2 of the Sale and Supply of Goods and Services Act 1982 (title and quiet possession);
- d) breach of the terms implied by section 12 of the Sale of Goods Act 1979 (title and quiet possession); or
- e) defective products under the Consumer Protection Act 1987.

12.2 Subject to clause [12.1](#):

- a) Cedaro Limited shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, for any loss of profit, or any indirect or consequential loss arising under or in connection with this Agreement; and
- b) Cedaro Limited's total liability to the Customer in respect of all other losses arising under or in connection with this Agreement, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the sums received from the Customer during the calendar year in which the purported breach arose.

12.3 The terms implied by sections [13](#) to [15](#) of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Sale of Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

12.4 This clause [12](#) shall survive termination of this Agreement.

## **13. TERMINATION**

13.1 Without limiting its other rights or remedies Cedaro Limited may, either during the Term or following any period of extension to such Term, terminate this Agreement by giving the Customer not less than 1 (one) months' written notice. Subject to clause [13.5](#), the Customer may terminate this Agreement or specific services forming this Agreement by giving Cedaro Limited not less than 3 (three) months' written notice.

13.2 Without limiting its other rights or remedies, Cedaro Limited may terminate this Agreement during the Term or following any period of extension to such Term, with immediate effect by giving written notice to the Customer if the Customer:

- a) commits a material breach of its obligations under this Agreement including the Internet and Email Acceptable Use Policy and (if such breach is remediable) fails to remedy that breach within 10 Business Days after receipt of notice in writing to do so;

- b) suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- c) commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- d) is subject to a petition being filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- e) is subject to a creditor or encumbrancer of the Customer attaching or taking possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;
- f) is subject to an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- g) is subject to the holder of a qualifying charge over the assets of the Customer (being a company) becoming entitled to appoint or has appointed an administrative receiver;
- h) is subject to a person becoming entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- i) is subject to any event occurring, or proceedings being taken, with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause [13.2\(b\)](#) to clause [13.2\(h\)](#) (inclusive);
- j) suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business;
- or
- k) financial position deteriorates to such an extent that in Cedaro Limited's opinion the Customer's capability to adequately fulfil its obligations under this Agreement has been

placed in jeopardy.

13.3 Without limiting its other rights or remedies, Cedaro Limited may terminate this Agreement with immediate effect by giving written notice to the Customer if the Customer fails to pay any amount due under this Agreement on the due date for payment.

13.4 Without limiting its other rights or remedies, Cedaro Limited may suspend the supply of Services or all further deliveries of Equipment under this Agreement or any other contract between the Customer and Cedaro Limited if the Customer fails to pay any amount due under this Agreement on the due date for payment, the Customer becomes subject to any of the events listed in clause [13.2\(b\)](#) to clause [13.2\(k\)](#) or Cedaro Limited reasonably believes that the Customer is about to become subject to any of them.

13.5 On termination of this Agreement for any reason:

- a) the Customer shall immediately pay to Cedaro Limited all of Cedaro Limited's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has yet been submitted, Cedaro Limited shall submit an invoice, which shall be payable by the Customer immediately on receipt;
- b) the Customer shall return all of Cedaro Limited Materials and any Deliverables which have not been fully paid for. If the Customer fails to do so, then Cedaro Limited may enter the Customer's premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Agreement;
- c) the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry; and
- d) clauses which expressly or by implication have effect after termination shall continue in full force and effect.

#### **14. CHANGES TO THE TERMS OF THIS AGREEMENT**

14.1 International pence per minute (PPM) rates are subject to change depending on the interconnect rates set by the country's specific carrier, this especially applies to international mobile rates.

14.2 The provisions in this clause [14](#) are without prejudice to the respective rights of the parties as set out elsewhere in the Contract.

14.3 Cedaro Limited may amend the Contract (including the Charges) at any time by either:

14.3.1 publishing the amendment online at [www.cedaro.co.uk](http://www.cedaro.co.uk) (or any other online address that Cedaro Limited advises the Customer of); and/or

14.3.2 by giving Notice to the Customer, for amendments that cause the Customer material



detriment, at least 30 days before the change is to take effect and, in the case of any other amendments, at least one day before the change is to take effect.

14.4 Where practicable, Cedaro Limited shall provide Customer with advance notice of such changes. If advance notice cannot be provided, Cedaro Limited shall advise Customer of the change as soon as practicable after it has been made. Cedaro Limited shall not be liable to Customer for any claims by Customer because of such changes.

14.5 Cedaro Limited may change the terms of this Agreement without Customer's consent where to the extent that such changes are required due to alterations to the Network or Service; the way Cedaro Limited operates; the way in which Cedaro Limited provides Services (including where, in Cedaro Limited's reasonable opinion, it is no longer commercially viable to provide a particular Service), provided that such changes affect at least 90% of Cedaro Limited's relevant customer base. In these circumstances, Cedaro Limited shall advise Customer of the change via an Amendment Notice, at least 30 days in advance of the change taking effect. If Customer is materially disadvantaged and objects to such change, Cedaro Limited shall not be liable to Customer for any claims by Customer because of such changes.

14.6 Cedaro Limited may amend the charges in April of each year, by introducing an increase to all or any Charges by a percentage up to or equal to the UK Consumer Prices Index (CPI) rate published by the Office for National Statistics (or by any other body to which the functions of that office may be transferred) in January of that year plus 3.9%. If the CPI rate is a negative, Charges will be increased no more than 3.9%. If the CPI is not published for the given month, the Cedaro Limited may use a substituted index or index figures published by that office for that month. For the avoidance of doubt, an increase to the Charges under this clause [14.6](#) shall not be an amendment to the Contract that causes the Customer material detriment.

## 15. FORCE MAJEURE

15.1 For the purposes of this Agreement, **Force Majeure Event** means an event beyond the reasonable control of Cedaro Limited including but not limited to strikes, lock-outs or other

industrial disputes (whether involving the workforce of Cedaro Limited or any other party), failure of a utility service or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or subcontractors.

15.2 Cedaro Limited shall not be liable to the Customer as a result of any delay or failure to

perform its obligations under this Agreement as a result of a Force Majeure Event.

15.3 If the Force Majeure Event prevents Cedaro Limited from providing any of the Services and/or Equipment for more than 6 (six) weeks, Cedaro Limited shall, without limiting its other rights or remedies, have the right to terminate this Agreement immediately by giving written notice to the Customer.

## 16. GENERAL

### 16.1 Assignment and other dealings.

a) Cedaro Limited may at any time assign, sell, transfer, mortgage, charge, subcontract, or deal in any other manner with all or any of its rights under this Agreement and may sell, subcontract or delegate in any manner any or all its obligations under this Agreement to any third party.

b) The Customer shall not, without the prior written consent of Cedaro Limited, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under this Agreement.

### 16.2 Notices.

a) Any notice or other communication given to a party under or in connection with this Agreement shall be in writing, addressed to that party at its registered office (if it is a company) or its principal place of business (in any other case) or such other address as that party may have specified to the other party in writing in accordance with this clause, and shall be delivered personally or sent by prepaid first-class post or other next working day delivery service, or by commercial courier, fax or e-mail.

b) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in clause [12.2\(a\)](#); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or e-mail, one Business Day after transmission.

c) The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

### 16.3 Severance.

a) If any provision or part-provision of this Agreement is or becomes invalid, illegal, or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

b) If one party gives notice to the other of

the possibility that any provision or part-provision of this Agreement is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

**16.4 Waiver.** A waiver of any right under this Agreement or law is only effective if it is in writing and shall not be deemed to be a waiver of any subsequent breach or default. No failure or delay by a party in exercising any right or remedy under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor prevent or restrict its further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

**16.5 No partnership or agency.** Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, nor constitute either party the agent of another party for any purpose. Neither party shall have authority to act as agent for, or to bind, the other party in any way.

**16.6 Third parties.** A person who is not a party to this Agreement shall not have any rights to enforce its terms.

**16.7 Variation.** Except as set out in this Agreement, no variation of this Agreement, including the introduction of any additional terms and conditions shall be effective unless it is agreed in writing and signed by Cedaro Limited.

**16.8 Governing law.** This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

**16.9 Jurisdiction** Each party irrevocably agrees that the courts of England shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

## **17. Compliance with Ofcom General Conditions of Entitlement**

17.1 Where the relevant Service is an Electronic Communications Service pursuant to the Applicable Law including the Ofcom General Conditions of Entitlement ('General Conditions'), this clause will apply. Where the relevant Electronic Communications Service is part of a Bundle, this clause will extend to the whole Bundle including, where applicable, any element of the Bundle that is not an Electronic Communications Service.

17.2 To comply with requirements set out in the General Conditions, Tela may provide Customer with certain information, where applicable.

17.3 Customer may waive their right to certain protections under the General Conditions. If applicable, Waivers will be set out in the Commercial Terms and/or Order Form.

17.4 Customer can verify if the Service is an Electronic Communications Service and find out more information on Waivers at [www.cedaro.co.uk](http://www.cedaro.co.uk).