

TERMS AND CONDITIONS FOR THE SUPPLY OF SUPPORT AND MAINTENANCE SERVICES (the "Agreement")

Preamble:

- (1) These terms and conditions apply only to Services (as defined below).
- (2) Additional Schedules may be added during the Term of the Agreement with the consent of both parties provided the terms of this Agreement shall continue to apply to such additional Schedules.
- (3) The terms of this Agreement shall be incorporated into the Order (as defined in the Terms and Conditions for the Supply of Goods and Services (the "**Main Agreement**")).
- (4) By signing the Order, the parties agree and acknowledge to be bound by the terms of this Agreement.

Any and all defined terms used herein which have not been defined under Clause 1, shall have the same meaning ascribed to it in the Main Agreement or in the Order. In the event of a conflict in relation to Services (as defined below) only:

- (a) the terms of this Agreement shall prevail over the terms of the Main Agreement. For all other services provided by the Supplier outside of the Services, the Main Agreement terms shall apply; and
- (b) the terms of the Order shall prevail over the terms of this Agreement.

1. Interpretation

1.1. The definitions and rules of interpretation in this Clause apply in this Agreement.

"Advanced Replacement"	means the Equipment; or equivalent if no direct replacement is available, which will arrive at the Site Address in accordance with the Coverage Hours and the Service Level specified in the Order. The Service Level commences with the Supplier's problem diagnosis and determination that a FRU is required and ending when the FRU is delivered to the Site Address. All software, firmware, and configuration related incidents are exempt from this Service Level.
"Beyond Economic Repair"	shall mean that the repair cost of an item exceeds 50% of the value of the new equivalent specification replacement.
"Comms-care"	means Comms-care Group Limited.
"Confidential Information"	means all information that each party provides to the other which is either expressed to be confidential or by its very nature is confidential including but not limited to know how and trade secrets and the contents of this Agreement.
"Coverage Hours"	means the hours specified in the Order or, if no hours are specified then, the hours of 9:00 a.m. and 5:00 p.m. on Monday to Friday excluding bank holidays.
"Data Protection Legislation"	all applicable data protection and privacy legislation in force from time to

time which apply to a party including (if and to the extent applicable) the UK GDPR (as defined in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018); the Data Protection Act 2018 (and regulations made thereunder); the General Data Protection Regulation ((EU) 2016/679) (**EU GDPR**); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.

“Dataquest”	means Dataquest (Heathrow) Limited.
“Enhancement” or “Up-grade”	means the addition to the Equipment of memory, co-processors, optional cards, manufacturer’s modifications and/or any other changes to the technical specifications or configuration of the Equipment excluding software and firmware upgrades.
“Equipment”	means the Equipment explicitly and specifically listed in the Order.
“Extended Term”	shall have the meaning given to in clause 8.1.
“Fee”	means the charges specified in Clause 3 and the Order together with any additional charges which may become payable pursuant to this Agreement.
“Fix”	means the engineer and the FRU will arrive at the Site Address in accordance with the Coverage Hours and the Service Level specified in the Order. The Fix Service Level is based on a clearly identifiable hardware failure. For all unidentifiable faults that require further diagnostics the Service Level automatically becomes a Response. All software, firmware, and configuration related incidents are exempt from this Service Level.
“FRU”	means the field replacement unit for the Equipment; or equivalent if no direct replacement is available.
“Good Industry Practice”	the standards that fall within the upper quartile of a skilled and experienced provider of identical to the Services, having regard to factors such as the nature and size of the parties, the Service Levels, the term, the pricing structure and any other relevant factors.
“Incident”	means an unplanned interruption to the normal operation of the Equipment.
“Initial Term”	1 year from the Service Commencement Date.

“Integration Period”	shall have the meaning ascribed to it as set out in clause 2.2.
“NBD”	means next business day, Monday to Friday, 9:00 a.m. to 5:00 p.m. excluding bank holidays.
“Order”	an order entered into between the Customer and the Supplier which incorporates the terms of the Main Agreement and the terms of this Agreement for the provision of the Services. The order sets out an explicit and complete list of Equipment at the Site Address and includes the Services and Service Level as agreed by the Customer and the Supplier from time to time and signed on behalf of each of the Customer and the Supplier.
“Response”	means an engineer onsite service, the engineer will arrive at the Site Address in accordance with the Coverage Hours and the Service Level specified in the Order. The Service Level commences with the Supplier’s problem diagnosis and determination that remedial onsite service is required and ending when the engineer arrives onsite. The FRU is dispatched following diagnosis and determination that a FRU is required. All software, firmware, and configuration related incidents are exempt from this Service Level.
“Service Commencement Date”	means the date from which the Supplier is under an obligation to provide the Services to the Customer as specified in the Order.
“Service Level”	means the Service Level relating to Fix, Response, or Advanced Replacement and specified in the Order.
“Services”	means the maintenance services to the Equipment described in and pursuant with the Order.
“Site Address”	means the address set out in the Order being the location where the Equipment is installed and operated.
“Supplier”	KASCADE. Cascade is a trading name of Computerworld (Systems) Limited, incorporated and registered in England and Wales with company number 04625112 whose registered office is at Apex House Turner Drive, Westerleigh Business Park, Yate, Bristol, England, BS37 5YX. Throughout this agreement, references to Cascade shall also include Computerworld (Systems) Limited. Computerworld (Systems) Limited and Cascade are used interchangeably to represent our business and services.
"Term"	means the Initial Term and any Extended Term.
“Updates”	means corrections, by-passes or revisions to the software which add no functionality.

“Upgrades”	means an enhancement to features or capabilities or performance of the Equipment.
“Vendor”	means the original manufacturer of the Equipment.
“Voucher”	means, an engineer only; remote support or onsite service, no FRU is supplied. The Service has a defined Service Level, explicitly detailed in the Order.

- 1.2. The headings in this Agreement do not affect its interpretation. Save where the context otherwise requires, references to Clauses are to Clauses of this Agreement. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3. A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.4. Where the words include(s), including or in particular are used in this Agreement, they are deemed to have the words without limitation following them. Where the context permits, the words other and otherwise are illustrative and shall not limit the sense of the words preceding them.
- 1.5. Words in the singular include the plural and in the plural include the singular.

2. THE SERVICES

- 2.1. The Supplier shall provide, or shall procure the provision of the Services to the Customer during the Term on the terms and conditions of this Agreement.
- 2.2. The Customer acknowledges that for the first thirty (30) days of the Term, beginning on the Service Commencement Date (“**Integration Period**”), the Supplier requires this time to process the Customer’s requirements into the Supplier’s systems and procure any additional spares and equipment required to enable the Supplier to provide the Services. During the Integration Period, the Customer accepts that the Supplier shall use its reasonable endeavours to provide the Services.
- 2.3. The Services to be provided to the Customer consists of corrective maintenance in respect of faulty materials in relation to the Equipment and includes all repairs which may be reasonably necessary including the supply and fitting of replacement parts. Those replacement parts may be refurbished or reconditioned parts. An engineer will attend the Site Address within the times specified in the Order, after a request made to the Supplier has been received in respect of an Equipment fault. When replacement parts are fitted the parts removed shall immediately become the property of the Supplier. The Supplier reserves the right to use equipment of a similar or higher specification if exact spares are unavailable for any reason.
- 2.4. In the event of the Customer requiring the Supplier to provide the Services to additional Equipment, then such Equipment must be added to the Order using the prescribed change process set out in clause 14, and any such changes as agreed will be deemed to form part of this Agreement.
- 2.5. In the event that any additional equipment is unserviceable, the Customer agrees to cover the cost of the

engineer visit and any other related expenses at the Supplier's prevailing rates.

2.6. The Services include maintenance of the Equipment which is necessitated as a result of fair wear and tear only. Any repair and/or replacement of the consumable items listed below (together the "**Consumable Items**") are excluded from the Services and will be subject to additional charges at the Supplier's prevailing rates:

- drum cartridge
- ribbons
- toner cartridge (including waste toner cartridges)
- paper
- collector units / bottles
- paper separator belt
- maintenance kits
- ozone filters
- developer kits
- print heads
- fuser units
- print wheels
- ink bottles / ink
- ribbon Masks
- transfer Belts
- print shields
- ink cartridges
- print bands
- Replace Batteries with Batteries and Standby Power Supplies containing Batteries
- Cathode ray tubes
- Laptop or Notebook screens and hinges
- All cables of any type
- Server storage, tape, and backup drives
- Screws, fittings, and brackets
- Monitors, displays or VDU's
- All peripherals - A peripheral is a device attached to a host computer behind the chipset whose primary functionality is dependent upon the host, and can therefore be considered as expanding the hosts capabilities, while not forming part of the system's core architecture
- Terminal / PC Accessories such as: screen filters, mouse mats, holsters, monitor arms.

2.7. The Supplier will not be responsible for the repair or replacement of any Consumable Items.

2.8. The Services do not include:

- (a) changes or alterations to the Equipment function;
- (b) commissioning or installation of new Equipment, options or attachments (other than replacements) or the physical relocation of the Equipment;
- (c) supplies, accessories, removable magnetic media, batteries, printheads, display devices, fuser units

- for laser printers or any other item deemed to be consumable or to have an expected operating life;
- (d) repair or damage arising from:
 - i. transportation or relocation of the Equipment not performed by the Supplier, its agents or sub - contractors.
 - ii. failure of electrical power, air conditioning or humidity controls.
 - iii. magnetic media failure.
 - iv. operator wilful default.
 - (e) Equipment outside the design specification or without documentation or manuals supplied with the Equipment.
 - (f) cleaning, repainting, refinishing or touching up; specification changes, relocation of the Equipment.
 - (g) software maintenance except to the extent otherwise stated in this Agreement;
 - (h) repair of any malfunction due to radiation in the environment of the Equipment;
 - (i) diagnosis and/or rectification of problems caused by apparatus other than the Equipment;
 - (j) diagnosis and/or rectification of problems arising from an operating environment for which the Equipment was not designed;
 - (k) reconditioning of Equipment if the items are aged five years or more or when the cost of such work would render the Equipment Beyond Economical Repair; and
 - (l) rectification of Equipment for which spares are not available from the Vendor or its agents.

2.9. The Supplier may submit an estimate of its charges in respect of performing any of the services referred to in clause 2.8 above, and will provide such services, subject to the prior written approval of the Customer. Any additional charges will be payable by the Customer in accordance with clause 3.

2.10. If the Customer does not authorise the replacement, repair or reconditioning of any item of Equipment as referred to in clause 2.8 within 30 days of the date of the Supplier's estimate for the same, the Supplier shall be entitled by written notice given at any time thereafter to the Customer, to exclude such items from the benefit of this Agreement and shall thereupon make a reasonable reduction in the annual maintenance charge thereafter payable accordingly.

2.11. All work carried out shall be acknowledged by the signature of a person holding position of sufficient authority at the time of signing.

2.12. In the event of this Agreement being entered into at any time subsequent to the sale or delivery of the Equipment to the Customer by the Supplier or where the Customer has installed any equipment themselves, then the Supplier reserves the right to undertake an inspection and produce a satisfactory report by an engineer of the Supplier on the following conditions:

(a) Should the Supplier not require an inspection or if the inspection reveals the Equipment to be in working order then this Agreement shall immediately come into force. Where the Customer has installed the Equipment any subsequent fault calls that are the result of incorrect set-up and configuration of the Equipment will not be covered by this Agreement and any remedial work will be carried out by the Supplier at the Supplier's rates in force at that time; or

(b) If the inspection reveals, in the sole opinion of the Supplier's engineer, that the Equipment is in need of repair then the Supplier shall notify the Customer and, if the Customer requires, the Supplier shall carry out such repair work. Such inspection and repair work to be charged to the Customer at prevailing rates which may from time to time change and any parts supplied shall be charged based on the then current prices and this Agreement shall come into force upon the signature of a duly authorised representative of the Customer, and the Supplier shall not be obliged to provide the Services until the foregoing conditions of

this Clause 2.12 have been satisfied to the Supplier's satisfaction.

- 2.13. If there is a failure or deficiency in the supply of the Services by the Supplier, the Customer shall notify the Supplier in writing of the same providing sufficient details of the failure or deficiency and the Customer shall provide the Supplier with 10 days to correct such failure or deficiency.
- 2.14. Where repairs cannot be effectively conducted at the Site Address, the Supplier reserves the right to install loan equipment of similar specification whilst repairs are conducted.
- 2.15. If loan equipment is installed, the Supplier will use reasonable endeavours to ensure that the repair works are completed within 21 days.
- 2.16. The Supplier is required, at all times, to comply with the Vendor's rules, regulations, guidelines and definitions; these may be different from the Supplier's own.
- 2.17. For NBD Service Level the cut off for delivery is 3:00pm on the previous day (Monday - Friday, 9:00-17:00).
- 2.18. The Supplier is not responsible for delays due to common couriers.
- 2.19. Software and firmware are included in the Services when specified in the Order; but are exempt from the Service Level and the Customer agrees that the Supplier will be entitled to charge the Customer additional charges, at its prevailing rates, for time which in the reasonable opinion of the Supplier it spends in relation to or on account of any of the following:
 - a) data restoration and/or re-establishment;
 - b) installation and configuration of software on new or replacement hardware or devices;
 - c) training;
 - d) upgrades and/or updates of any kind;
 - e) unauthorised use of the software;
 - f) inadequate back-up procedures;
 - g) providing Services to the Customer in circumstances where any reasonably skilled and competent system administrator would have judged the Customer's request to have been unnecessary;
 - h) providing the Services to the Customer where such support would in the Supplier's reasonable opinion have been unnecessary if the Customer had implemented and installed any Update(s) supplied or offered to the Customer;
 - i) providing the Services outside the Coverage Hours; or
 - j) providing any other Services not covered herein.
- 2.20. Software, firmware, operating system, application, data or configuration file restorations do not constitute part of the Service Level. Reasonable endeavours will be made to restore any software, firmware, operating system, applications, assuming that they are listed in the Order and have been made readily available to the Supplier.
- 2.21. The Supplier is not responsible for the security or integrity of any software, firmware, operating system, application, data or configuration file supplied by the Customer.
- 2.22. No representation or warranty is given by the Supplier with regard to software and firmware that is

included in the Services or that any faults will be fixed or that they will be fixed in accordance with the Service Levels.

- 2.23. A Voucher can be purchased in any quantity; but at the Supplier's discretion minimum quantities may apply. The Service Level is defined in the Order and has predetermined time limits. The time limits are detailed in the Order and are based on a per Voucher usage. Any partially used Voucher will be deemed to have been spent regardless of the amount of time used. The Supplier will; using reasonable endeavours assign an engineer with the appropriate skill level, to the Site Address, where this isn't possible the Customer will be informed at the point at which the Voucher is redeemed against the Service Level. A Voucher is valid for a maximum of 12 months from the date of purchase; the Supplier may; at its discretion increase the period of the validity beyond the maximum. The Supplier reserves the right to refuse the redemption of Voucher for any reason or no reason. The Fees are payable in accordance with clause 3. Fees are payable regardless of the usage of the Vouchers, even if the usage has been zero at the expiry date.

3. FEES

- 3.1. The Fees payable by the Customer to the Supplier shall be as specified in the Order. Software fees are payable annually in advance. The Customer and the Supplier acknowledge that software contracts can take up to 60 days to be processed with the Vendors.
- 3.2. The Supplier reserves the right to increase the Fees at any time during the Term to reflect any increase in the fees, costs or charges payable by the Supplier to Comms-Care or Dataquest.
- 3.3. If in the opinion of the Supplier the Services are required by the Customer are as the result of any misuse or neglect of, or accident to the Equipment, or due to the Customer not adhering to Clauses 6.1 to 6.4 (inclusive), or other third party hardware related problems; the Supplier may charge an additional Fee in relation to the provisions of the Services.
- 3.4. The Supplier may, upon prior written consent from the Customer (such consent not to be unreasonably withheld or delayed) charge an additional Fee for a maintenance call to the Equipment that has been moved to a new location and not installed by the Supplier if the Supplier shall reasonably determine that the problem was caused by the transportation or re installation of the system.
- 3.5. In the event of additional Fees becoming due, those fees will be charged at such rates in force at that time.
- 3.6. Any invoices rendered by the Supplier shall be paid by the Customer in full (without any set off or other deduction) within 30 days of the date of the invoice or in accordance with any credit terms agreed by the Supplier and confirmed in writing to the Customer.
- 3.7. If payment is not made on the due date, the Supplier shall be entitled, without limiting any other rights it may have, to charge interest on the undisputed outstanding amount (both before and after any judgment) at the rate of 2% above the base rate from time to time of the Bank of England from the due date until the outstanding amount is paid in full.
- 3.8. In addition to the Supplier's other rights, it may suspend the provision of the Services and/or terminate this Agreement if any invoice raised by the Supplier is overdue. Supplier shall only be permitted to suspend Services in accordance with this Clause 3.8 for Services related to the overdue and undisputed invoice.
- 3.9. All sums payable to the Supplier shall become due immediately on termination of this Agreement, despite

any other provision. This Clause 3.9 is without prejudice to any right to claim for interest under the law, or any such right under this Agreement.

- 3.10. Any claims arising from any invoices must be made within 3 working days otherwise shall be deemed accepted by the Customer.

4. UPGRADES AND ENHANCEMENTS

- 4.1. Subject to clause 4.4, where Upgrades or Enhancements are made to the Equipment by the Supplier they shall be deemed to be included in the definition of "Equipment" in Clause 1 and shall become subject to the terms of this Agreement for the unexpired Term of this Agreement from the date of the Upgrade or Enhancement.
- 4.2. The Fees shall, upon receiving prior written notice from the Customer, be increased to such sum as the Supplier shall require taking into account the Upgrade or Enhancements referred to in Clause 4.1 above.
- 4.3. The Customer will notify the Supplier in writing forthwith of any Enhancement or Upgrade made to any equipment or software which is installed by any third party.
- 4.4. Upgrades and Enhancements made to the Equipment pursuant to Clause 4.3 shall be included within the definition of "Equipment" in Clause 1 only after a report prepared by an engineer of the Supplier on the effect of the Upgrade or Enhancement on the Equipment has been produced and the Supplier has confirmed it is satisfied with the report at which point such third-party Upgrades or Enhancements shall become subject to the terms of this Agreement. The Supplier reserves the right to exclude any such third-party Upgrades or Enhancements from becoming subject to the terms of this Agreement at its complete discretion.
- 4.5. The inspection and report referred to in Clause 4.4 shall be charged to the Customer upon receiving prior written notice from the Customer at the rate specified by the Supplier at that time and shall be paid in addition to the sum referred to in Clause 4.2.

5. LIMITATION OF LIABILITY

- 5.1. This Clause 5 sets out the entire financial liability of the Supplier (including any liability for the acts or omissions of its employees, agents, consultants, and subcontractors) to the Customer in respect of:
- a) any breach of this Agreement;
 - b) any use made by the Customer of the Services, the Equipment (including any Upgrades, Enhancements and any third party services, Upgrades and Enhancements) or any part of them; and
 - c) any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.
- 5.2. Save as otherwise stated herein, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

5.3. Nothing in this Agreement limits or excludes the liability of the parties:

- a) for death or personal injury resulting from negligence;
- b) for any damage or liability incurred as a result of fraud or fraudulent misrepresentation by the other party; or
- c) any other liability which cannot lawfully be excluded or limited.

5.4. Subject to Clause 5.2 and Clause 5.3, the Supplier shall not be liable for:

- i. loss of profits; or
- ii. loss of business; or
- iii. depletion of goodwill and/or similar losses; or
- iv. loss of goods; or
- v. loss of contract; or
- vi. loss of use; or
- vii. loss or corruption of data or information; or
- viii. loss caused by or arising from the default or negligence of the Customer or its employees, agents or sub-contractors; or
- ix. any loss or damaged suffered by the Customer as a result of an action brought by a third party, even if such loss was reasonably foreseeable or the Supplier had been advised of the possibility of the Customer incurring the same; or
- x. any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.

5.5 The Supplier's total liability in contract, tort (including negligence or breach of statutory duty), indemnity, misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of this Agreement shall be limited to the lower of:

- 5.5.1 100% of the Fees paid by the Customer for the Services during the twelve (12) months preceding the date on which the claim arose; or
- 5.5.2 the total Fees paid by the Customer for the Services in the first Contract Year.

5.6 Subject to Clause 5.2 and Clause 5.3, the Supplier is not liable for any manufacturer's, Vendor's or any of its third party's services and/or defects in equipment or the resultant use thereof.

5.7 Subject to Clause 5.2 and Clause 5.3, the Supplier shall not be liable to the Customer for any loss arising out of (and to the extent caused by) any failure by the Customer to keep full and up-to-date security copies of the computer programs and data it uses in accordance with best computing practice.

6. CARE OF EQUIPMENT

6.1. The Customer shall at its own expense provide the Supplier with full and prompt access to the Equipment to enable the Supplier to provide the Services.

- 6.2. The Customer will take care of the Equipment and will operate it in a suitable environment as recommended by the manufacturers of the Equipment.
- 6.3. The Customer will operate the Equipment with a suitable stable power supply free from surges and fluctuations as recommended by the manufacturers of the Equipment.
- 6.4. No alterations shall be made to or parts fitted or adjustments made or repairs carried out to any parts of the Equipment except without prior notification to the Supplier and assurances that the alterations will be compliant with manufacturer guide lines. Consequence for non-conformity will be that the item is excluded from the contract with no refund.
- 6.5. The Supplier will not be accountable for:
- a) any failure of the Customer or any of its employees to comply with the terms of this Agreement or any user manual or other documentation supplied by the Supplier or the Vendor;
 - b) visits to premises other than the Site Address;
 - c) any use of the Equipment by the Customer in conjunction with any other equipment or any software not previously approved by the Supplier;
 - d) electrical work external to the Equipment;
 - e) maintenance of equipment not forming part of the Equipment or of accessories to the Equipment not supplied by the Supplier;
 - f) the attachment or removal of accessories, attachments or other devices by the Customer or a third party;
 - g) the supply and fitting of consumable accessories such as ribbons, tapes or disks;
 - h) painting, refurbishing or cleaning the exterior of the Equipment;
 - i) reconditioning or replacement of the Equipment or parts thereof;
 - j) placing the Equipment into proper working condition at the commencement of the Period if the Equipment has not been supplied by the Supplier;
 - k) relocation of the Equipment;
 - l) the installation of an operating software upgrade or any other work in relation to any firmware/software loaded onto the Equipment or used by the Customer in conjunction with the Equipment;
 - m) use of inappropriate software in conjunction with the Equipment;
 - n) wilful damage to or negligent use of the Equipment;
 - o) providing the Services outside the Coverage Hours;
 - p) repair of damage which in the Supplier's reasonable opinion results from:-
 - i. accident, transportation, neglect or misuse of the Equipment during the course of this Agreement;
or
 - ii. modifications to the Equipment made during the course of this Agreement without prior notification to the Supplier; or
 - iii. unauthorised attempts by or on behalf of the Customer to repair the Equipment, failure or surge of electrical power, or failure of air conditioning or humidity control;

7. CUSTOMER'S RESPONSIBILITIES

7.1. The Customer shall:

- (a) provide the Supplier (and its agents and sub-contractors, including, but not limited to, Comms-Care and Dataquest) with such information, cooperation, assistance, facilities and computer resources as it reasonably requires enabling it to perform the Services. Failure to provide information such as full address and Equipment details may result in Services being withheld and/or may lead to the Service Level being considered outside of this Agreement;
- (b) prepare the premises for installation of the Equipment to be worked on by the Supplier to the Supplier's reasonable satisfaction;
- (c) use the Equipment in a careful and proper manner in accordance with the Vendor's operation instructions or manuals;
- (d) notify the Supplier promptly after discovery that the Equipment is not operating correctly;
- (e) neither perform or cause, suffer to permit to be performed any maintenance adjustments or repairs to the Equipment by persons other than the Supplier (or its agents or sub-contractors);
- (f) faulty Equipment shall be returned to the Supplier within 7 working days, and in the event the Equipment is not returned within this time period the Supplier may charge the Customer for that Equipment;
- (g) give prompt attention to any matter raised by the Supplier relating to Customer's obligations and the performance of the Services;
- (h) comply with any laws and regulations applying to the Customer's business;
- (i) promptly implement recommendations by the Supplier in respect of remedial actions; whether prior to or following an incident; and confirm that it owns or will obtain valid licences of all Intellectual Property, commercial off the shelf products or software developed under license which are necessary to grant the Supplier access to and use of the software for the purpose of fulfilling its obligations under this Agreement.

7.2. To the extent that the Customer does not fulfil its responsibilities under this Agreement, then (without prejudice to the Supplier's other rights and remedies), the Customer acknowledges and agrees that:

- (a) the Supplier reserves the right to charge the Customer for resources assigned to performing the Services even if not utilised (provided the Supplier shall consult with the Customer and act reasonably in doing so);
- (b) the Supplier reserves the right to change the scope of the Services or any timetable for their performance (provided the Supplier shall consult with the Customer and act reasonably in doing so);

- (c) the Supplier's Fees and any estimates may be affected; and
- (d) the Supplier will be relieved of its obligations to the Customer under this Agreement to the extent that the Supplier is prevented from performing the Services in accordance with this Agreement.

8. THE TERM AND TERMINATION

- 8.1. This Agreement shall commence on the dates set out in the Order. Unless terminated earlier in accordance with this Clause 8, this Agreement shall continue in force for the Initial Term and shall automatically extend for successive 12-month periods (**Extended Term**) at the end of the Initial Term and at the end of each Extended Term unless:
- (a) the Customer gives to the Supplier 120 days' advance notice to terminate this Agreement; or
 - (b) the Supplier gives to the Customer 60 days' advance notice to terminate this Agreement.
- 8.2. The Customer shall give the Supplier at least 90 days' notice in writing prior to the removal of any Equipment from the location specified as the Site Address. Should the proposed relocation site of the Equipment be unacceptable to the Supplier for maintenance purposes, the Supplier reserves the right to terminate this Agreement without any liability to the Customer, with effect from the date of removal of the Equipment and the Customer. For the avoidance of doubt, the Customer shall remain liable to pay the remaining Term or Extended Term (as the case may be) if such termination should occur prior to the end of the Initial Term or the Extended Term (as the case may be).
- 8.3. Without prejudice to any other right or remedy contained in this Agreement or otherwise, either party may terminate this Agreement immediately without liability to the other:
- (a) in the event of the non-payment in accordance with Clause 3.6; and/or
 - (b) if the Customer breaches any of the terms under the Main Agreement or where a right to terminate arises for the respective party under Clause 14 of the Main Agreement.
- 8.4. Without affecting any other right or remedy available to it, the Supplier may terminate this Agreement with immediate effect by giving written notice to the Customer if the agreement between the Supplier and either Dataquest or Comms-Care (as the case may be), expires or is terminated for any reason.
- 8.5. The termination of this Agreement (whether under this Clause or otherwise) shall not relieve either party of any obligation already incurred under this Agreement and failure by a party in any one or more instances to terminate this Agreement on account of any default or breach by the other party shall not constitute a waiver of the same or of any default or breach.
- 8.6. Upon the termination or expiry of this Agreement, however caused:
- (a) the Customer shall pay all Fees and other charges payable that are not in dispute promptly without deduction or set off any such amounts; and
 - (b) the Customer shall promptly return all of the Supplier's Equipment to the Supplier or at the Supplier's direction. Until they have been returned or repossessed, the Customer shall be solely

responsible for their safe keeping.

- 8.7. Termination or expiry shall not affect any accrued rights or liabilities of either party at the date of termination or expiry.

9. CONFIDENTIALITY AND USE OF INFORMATION

- 9.1. Each party shall keep in strict confidence all technical or commercial intelligence, information, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to (“**Recipient**”) by the other party, its employees, agents, consultants or subcontractors (“**Discloser**”) and any other confidential information concerning the Discloser's business or its products which the Recipient may obtain, but does not include any information that: (a) is or becomes generally available to the public (other than as a result of its disclosure by the Recipient in breach of this clause), (b) was available to the Recipient on a non-confidential basis before disclosure by the Discloser, (c) was, is, or becomes, available to the Recipient on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the Discloser or otherwise prohibited from disclosing the information to the Recipient, (d) was known to the Recipient before the information was disclosed to it by the Discloser, (e) the parties agree in writing is not confidential or may be disclosed, or (f) is developed by or for the a Recipient independently of the information disclosed by the Discloser.
- 9.2. The Recipient may disclose such information:
- (a) to its employees, officers, representatives, advisers, agents or Subcontractors who need to know such information for the purposes of carrying out the Recipient's obligations under the Contract; and
 - (b) as may be required by law, court order or any governmental or regulatory authority.
- 9.3. The Recipient shall ensure that its employees, officers, representatives, advisers, agents or subcontractors to whom it discloses such information comply with this Clause 9.
- 9.4. Save as otherwise provide for herein, the Recipient shall not use any such information for any purpose other than to perform its obligations under the Contract.
- 9.5. All materials, equipment and tools, drawings, specifications and data supplied by the Discloser to the Recipient (including the Discloser's Equipment) shall, at all times, be and remain as between the parties the exclusive property of the Discloser, but shall be held by the Recipient in safe custody at its own risk and maintained and kept in good condition by the Recipient until returned to the Discloser, and shall not be disposed of or used other than in accordance with the Discloser's written instructions or authorisation.
- 9.6. Each party shall, on written request, either return or destroy the other's Confidential Information in its possession, except that each party shall be entitled to keep copies or records for archive purposes (and such copies shall continue to be Confidential Information).

10. CANCELLATION

In the event of the Customer booking time and materials installation work but subsequently cancelling the same (whether temporarily or indefinitely) then the following cancellation charges shall immediately become due and payable by the Customer to the Supplier:

Time	Charge
Cancellation within 24 hours of work commencing	75% of invoice value

11. FORCE MAJEURE

11.1. A party, provided that it has complied with the provisions of Clause 11.3, shall not be in breach of this Agreement, nor liable for any failure or delay in performance of any obligations under this Agreement (and, subject to Clause 11.4, the time for performance of the obligations shall be extended accordingly) arising from or attributable to acts, events, omissions or accidents beyond its reasonable control ("**Force Majeure Event**"), including but not limited to any of the following:

- (a) acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster;
- (b) war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
- (c) terrorist attack, civil war, civil commotion or riots;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) compliance with any law (including a failure to grant any licence or consent needed or any change in the law or interpretation of the law);
- (f) fire, explosion or accidental damage;
- (g) loss at sea;
- (h) adverse weather conditions;
- (i) collapse of building structures, failure of plant machinery, machinery, computers or vehicles;
- (j) any labour dispute, including but not limited to strikes, industrial action or lockouts;
- (k) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on this Clause); and
- (l) interruption or failure of utility service, including but not limited to electric power, gas or water.

11.2. The corresponding obligations of the other party will be suspended to the same extent.

11.3. Any party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:

- (a) it promptly notifies the other party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
- (b) it has used reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible.

11.4. If the Force Majeure Event prevails for a continuous period of more than 4 weeks, the Supplier may terminate this Agreement with immediate effect by giving written notice to the Customer. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

12. ENTIRE AGREEMENT

- 12.1. This Agreement, the Main Agreement and the Order and any documents referred to in it constitutes the whole Agreement between the parties and supersede any previous arrangement, understanding or Agreement between them relating to the subject matter of this Agreement.
- 12.2. Each party acknowledges that, in entering into this Agreement and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty (Representation) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement or those documents. Each party agrees that the only remedies available to it arising out of or in connection with a Representation shall be for breach of contract as provided in this Agreement.
- 12.3. The parties may terminate this Agreement with immediate effect where any party is proved to be offering, promising or giving a bribe or requesting, agreeing to receive or accepting a bribe or bribing a foreign or public official in connection with the Services within this Agreement or that of the Supplier's intelligence contrary to the Bribery Act 2010.
- 12.4. It is acknowledged that the Supplier promotes its services by means of promotional and sponsored events where the Customer is invited to attend such event, this in no way constitutes any bribe, offering or promise.

13. DATA PROTECTION

13.1. The parties will comply with Clause 11 of the Main Agreement in relation to the Data Protection Legislation.

14. CHANGE CONTROL

- 14.1. If either party wishes to change the scope or execution of the Services, it shall submit details of the requested change to the other in writing.
- 14.2. If either party requests a change to the scope or execution of the Services, the Supplier shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
 - (b) any necessary variations to the Supplier's charges arising from the change;
 - (c) the likely effect of the change on the Service Levels; and
 - (d) any other impact of the change on this Agreement.
- 14.3. If the Customer wishes the Supplier to proceed with the change, the Supplier has no obligation to do so unless and until the parties have agreed the necessary variations to its charges, the Services, the relevant Service Levels and any other relevant terms of this Agreement to take account of the change and this Agreement has been varied in accordance with clause 15.9.

14.4. Notwithstanding clause 14.3, the Supplier may, from time to time and with prior written notice, change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not affect the nature, scope of, or the charges for the Services. If the Supplier requests a change to the scope of the Services for any other reason, the Supplier shall first seek the prior written consent of the Customer to change such scope.

15. GENERAL

- 15.1. This Agreement shall not be assigned or transferred (unless it is assigned or transferred internally to an affiliate of the Customer) in any manner by the Customer without the prior written consent of the Supplier and any such assignment or transfer shall not excuse either party from liability for the due performance and observance of any provision expressed herein on their part to be observed or performed up to the date of assignment or transfer. The consent of the Supplier shall not be unreasonably withheld or delayed. The Supplier shall not be entitled to assign or transfer the benefit of the Agreement unless it has first obtained the Customer's prior written consent (which consent shall not be unreasonably withheld or delayed).
- 15.2. The Agreement between the Supplier and the Customer may only be amended or supplemented in writing executed jointly by an authorised representative of the Customer and an authorised representative of the Supplier.
- 15.3. The Supplier reserves the right to sub contract the maintenance of any part of or all of the Equipment to third parties provided however that the Supplier shall remain fully liable for any and all of the actions and or omissions of its subcontractors, agents, employee and third parties as though such actions and/or omissions are the actions and/or omissions of the Supplier
- 15.4. The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision had been omitted.
- 15.5. Any notice or other document to be given by delivering the same by hand or by sending the same pre-paid registered post, facsimile or telex to the address of the relevant party set out in this Agreement or to such other address as such party may have notified in writing to the address as such party may have notified in writing to the other. Any notice delivered by hand shall be deemed delivered the same working day and any notice sent by post shall be deemed in the absence of evidence of earlier receipt to have been delivered 2 working days after despatch, and in proving the fact of dispatch it shall be sufficient to show that the envelope containing such notice was properly addressed, stamped and posted. Any notice sent by facsimile shall be deemed to have been delivered on the first working day following its dispatch. The working day shall be construed as Monday to Friday 09.00 to 17.00 hours, excluding Public and Bank holidays.
- 15.6. No term of this Agreement is intended expressly or by implication or other inference to purport to confer a benefit or right of action upon any third party. No such third party (whether or not in existence at the date of this Agreement) is named or described herein. The Contracts (Rights of Third Parties) Act 1999 is expressly excluded to the fullest extent permitted by law.
- 15.7. This Agreement shall be governed and construed in accordance with the Laws of England and the parties submit to the exclusive jurisdiction of the English Courts.

- 15.8. The Customer warrants to the Supplier that the performance of the Services by Supplier will not in any way constitute an infringement or other violation of any Intellectual Property Right of any third party.
- 15.9. Subject to Clause 14.3, no variation of this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.