

TERMS & CONDITIONS FOR DATA CONNECTIVITY

The Customer's attention is particularly drawn to the provisions of clause 17.

1. INTERPRETATION

The definitions and rules of interpretation in this clause apply in these terms and conditions.

1.1 Definitions:

Abzorb: Abzorb Systems Ltd, being a company registered in England and Wales (company registration number 04058821 whose registered office is Abzorb, Armytage Road, Brighouse, West Yorkshire, HD6 1QF.

Business Day: Monday to Friday excluding public and bank holidays in England.

Carrier: Abzorb's chosen subcontractor used to install and carry the Customer's Data Services.

Contract: the Customer's Service Order (also referred to as the Connection Schedule) and Abzorb's acceptance of it under condition 3.

Continuation Term: any continuation of this Contract beyond the Initial Term pursuant to condition 7.1.

Data Services: provision of a fixed data connection to Abzorb's network.

Customer: the person, firm or company who purchases Services from Abzorb.

Customer's Project Manager: the Customer's manager for the Project appointed in accordance with condition 5.1(k).

Equipment: any equipment provided by Abzorb including, where applicable, router, switches and power over Ethernet switches (POE).

Initial Term: means the initial minimum term specified in the Service Order, such term commencing on the Service Commencement Date.

Installation Fee: the combined charge for the Site survey, Equipment and Installation Service as specified in the Service Order subject to variation in accordance with these conditions.

Installation Service: the installation of the Equipment in order to provide the Data Service at the Site, such services to be carried out by Abzorb or its subcontractors.

Installation Service Commencement Date: the date on which the Installation Service will commence as specified in the Service Order.

Intellectual Property Rights: patents, rights to inventions, copyright and related rights, trade marks, trade names, domain names, rights in get-up, rights in goodwill or to sue for



passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, moral rights, rights in confidential information (including without limitation know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered, and including without limitation all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

NTE: any Equipment provided by the relevant carrier including, where applicable, router, switches and power over Ethernet switches (POE).

Network: means the network and communications systems and infrastructure to which the Equipment connects which is used by Abzorb to provide the Data Services.

Project: the Installation Service and Data Service.

Required Date: means the target date for commencement of the Data Service.

Retail Prices Index: the Retail Prices Index (All Items, excluding mortgages) as published by the Office for National Statistics from time to time, or failing such publication, that other index as the parties may agree most closely resembles such index.

Services: the Installation Service and Data Service to be provided by Abzorb under the Contract as specified in the Service Order.

Service Commencement Date: the date on which the Data Service is deemed to commence in accordance with condition 6.6.

Service Demarcation Point: means:

- a. if the router has been supplied by Abzorb, the Customer port of the router; or
- b. if the router has been supplied by the Customer, at the carrier's NTE.

Service Fee: the fee for the provision of the Data Service, as specified in the Service Order.

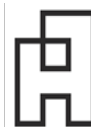
Service Order: means the service order attached incorporating the customer requirements form (if any).

Site: means the Customer's premises as specified in the Service Order at which the Services will be provided.

Target Contractual Delivery Date: the estimated Service Commencement Date to be notified to the Customer in accordance with clause 4.5.

VAT: value added tax chargeable under English law for the time being and any similar additional tax.

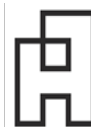
- 1.2 Clause, Schedule and paragraph headings shall not affect the interpretation of this agreement.



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- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.6 Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.8 A reference to **writing** or **written** includes faxes and email.
- 1.9 References to conditions, clauses and Schedules are to the, conditions, clauses and Schedules of this agreement and references to paragraphs are to paragraphs of the relevant Schedule, which all form part of the Contract.

2. APPLICATION OF CONDITIONS

- 2.1 These conditions shall:
- (a) apply to and be incorporated in the Contract; and
 - (b) prevail over any inconsistent terms or conditions contained in, or referred to in, the Customer's Service Order, confirmation of order, or specification, or implied by law, trade custom, practice or course of dealing.
- 2.2 No addition to, variation of, exclusion or attempted exclusion of any term of the Contract shall be binding on Abzorb unless in writing and signed by a duly authorised representative of Abzorb.
- 2.3 The Contract shall incorporate:
- (a) the relevant data tariffs in force from time to time for the Data Services; and
 - (b) any additional data conditions relating to specific services supplied by Abzorb



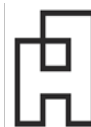
provided that these conditions shall prevail over any inconsistent terms or conditions contained in, or referred to in such documents.

3. EFFECT OF PURCHASE ORDER

The Customer's Service Order constitutes an offer by the Customer to purchase the Services specified in it on these conditions; accordingly, the signature of a copy of or acknowledgement of acceptance of the Service Order by Abzorb, or Abzorb's commencement or execution of work pursuant to the Service Order, shall establish a contract for the supply and purchase of those Services on these conditions. The Customer's standard terms and conditions (if any) attached to, enclosed with, or referred to in, the purchase order shall not govern the Contract.

4. SITE SURVEY AND AMENDMENT OF SERVICE ORDER

- 4.1 Following the establishment of the contract in accordance with condition 3 Abzorb or its carrier partners or subcontractors shall carry out a survey of the Site to ascertain whether the Service, Equipment, Commencement Date, Installation Fee or Service Fee as detailed in the Service Order require amendment.
- 4.2 The Customer shall allow the parties named in clause 4.1 reasonable access to the Site for the purposes of carrying out such survey.
- 4.3 If Abzorb determines that any amendment is required in accordance with clause 4.1:
 - (a) Abzorb shall give notice in writing to the Customer as soon as reasonably practicable following completion of the survey by submitting a replacement Service Order including details of such amendment(s);
 - (b) the Customer may accept the amended Service Order by giving notice to Abzorb confirming such acceptance (which need not be in writing);
 - (c) if the Customer has not accepted the amended Service Order within 10 Business Days of the notice from Abzorb pursuant to clause 4.3 the Contract shall terminate with immediate effect.
- 4.4 If Abzorb determines that it cannot provide Services to the customer (for any reason) it may terminate the contract by giving notice in writing to the Customer with immediate effect.
- 4.5 Abzorb shall following the Site survey, subject to conditions 4.3 and 4.4, inform the Customer in writing of the Target Contractual Delivery Date.



5. CUSTOMER OBLIGATIONS RELATING TO INSTALLATION

- 5.1 The Customer shall take all steps reasonably necessary to enable Abzorb to provide the Installation Service, including but not limited to:
- (a) allowing Abzorb reasonable access to the Site for the purposes of carrying out the Installation Service;
 - (b) preparing the Site and the Customer's network(s) in accordance with Abzorbs instructions and requirements notified to the Customer by Abzorb (including making available at least two 13amp AC outlets for each NTE and further sockets for test equipment;
 - (c) providing a power supply and arranging alternative power supplies if any temporary supply fails;
 - (d) ensuring all electrical equipment at the Site including the hard wiring have been tested and are appropriately certified in accordance with all relevant legislation;
 - (e) connecting any tail circuits to the Customer's network in accordance with Abzorb's instructions;
 - (f) providing full access to the Site and networks and making available such office and technology facilities as may be reasonably necessary for Abzorb to provide the Data Service;
 - (g) providing a suitable operating environment for the Equipment in accordance with the manufacturer's operating instructions;
 - (h) furnishing such information and documents as Abzorb may reasonably require for the proper performance of the Data Services;
 - (i) obtaining all third party consents, licenses and rights reasonably required in order to enable Abzorb to provide the Data Service and complying with any applicable laws, statutes, regulations and codes of practice, in relation to the Data Service;
 - (j) implementing and maintaining adequate security and virus checking procedures in relation to any computer facilities used by Abzorb at the Site; and
 - (k) co-operating with Abzorb in all matters relating to the Project and appoint the Customer's Project Manager, who shall have the authority to contractually bind the Customer on matters relating to the Project.

6. ACCEPTANCE

- 6.1 Abzorb shall notify the Customer on completion of the Installation Service that the Installation Service has been completed (whether in writing or otherwise).



- 6.2 The Customer shall within 3 Business Days of such notification test the Data Service for the purpose of acceptance (**Acceptance Testing**).
- 6.3 The Customer must within the period specified in clause 6.2 notify Abzorb (in writing) of any material non-conformity of the Data Service as specified in the Service Order. If in the opinion of Abzorb any non-conformities have a material detrimental effect on the Data Service, Abzorb shall use its reasonable endeavours to remedy such non-conformities within a reasonable period of time.
- 6.4 The Installation Service shall be deemed complete on the earlier of:
- (a) the date the Customer provides written confirmation to Abzorb that the Acceptance Testing has been completed;
 - (b) where the Customer has not provided confirmation under condition 6.3, 3 Business Days from the date Abzorb notifies the Customer that the Installation Service has been completed; or
 - (c) where the Customer has notified Abzorb under condition 6.3 of material non-conformities, 3 Business Days from the date which Abzorb notified the Customer that such non-conformities were remedied, or immediately upon Abzorb notifying the Customer that if any non-conformities exist, they will not have a detrimental effect on the Data Service.
- 6.5 The Service Commencement Date may, at the absolute discretion of Abzorb, be extended by a period of time equivalent to any additional time spent by Abzorb remedying non-conformities notified by the Customer under condition 6.3 above. The Customer shall pay to Abzorb the costs incurred by Abzorb at its then standard rates in respect of any additional time incurred by Abzorb investigating any notified non-conformities which later are found not to exist.
- 6.6 The Data Service will be deemed to be ready for use and shall be deemed to commence from the date the Installation Service has been completed as determined by condition 6.4 and the Customer shall be liable to pay for the Data Service from such date which shall be the **Service Commencement Date**.

7. THE TERM

- 7.1 The Contract shall, subject to the other provisions contained in these conditions, commence on the date the Contract is concluded and shall continue for the Initial Term and indefinitely after that until terminated by either party giving at least 60 days prior



written notice to expire on the expiry date of the Initial Term, or on any anniversary of that date (**Extension Term**).

- 7.2 In the event that the Initial Term is not stated in the Service Order, the Initial Term shall be 36 months from the Service Commencement Date.

8. ONGOING CUSTOMER OBLIGATIONS

- 8.1 The Customer shall at its own cost:

- (a) be responsible for procuring any third party consents that may be required by Abzorb and/or its subcontractors to provide the Installation Service and/or the Service, including, for example, landlord consents, wayleave consents, tail circuit installation consents, and access consents;
- (b) be responsible for providing named contacts (and any replacement contact(s)) and ensuring that they have the appropriate level of authority to make decisions relating to the Installation Service and the Service;
- (c) ensure that Abzorb's staff and subcontractors have a safe place to work, and will notify Abzorb and/or its subcontractors of any health and safety rules which apply to the Site;
- (d) perform all its obligations under the Contract;
- (e) follow Abzorb's reasonable instructions;
- (f) provide Abzorb with up-to-date information, cooperation, support, and access, to enable Abzorb to perform its obligations under the Contract;
- (g) provide Abzorb with office, information technology, and telecommunications facilities (including full remote access) where applicable, to enable Abzorb to perform our obligations under the Contract;
- (h) supply and maintain all space, power supply access points, cables, trunking, electricity, air conditioning and any other facility as may be identified as being required following the site survey to receive the Services;
- (i) keep full and up-to-date secure backup copies of the data on the Network in accordance with good industry practice; and
- (j) comply with and maintain compliance with all such laws and regulations that relate to the Service and provision of telecommunications and other products or services supplied by Abzorb.

- 8.2 The Customer will not allow any unauthorised user or any third party to access or use the Equipment and / or the Services, and shall take all reasonable security precautions to



avoid such unauthorised access or use, and / or add to, modify, or interfere with in any way, the Equipment and/or the Services including but not limited to sharing passwords and log-in details or writing such details down and leaving them unsecured.

8.3 The Customer shall not use the Data Service in any way that would constitute or contribute to the commission of a crime, tort, fraud, or other unlawful activity (including activities deemed unlawful under a complainant's legal jurisdiction). The Customer shall indemnify Abzorb, and keep Abzorb fully indemnified, against all costs, claims, demands, expenses, and liabilities arising out of, or in connection with, any claim that the use of the Data Service infringes any laws or regulations.

8.4 The Customer warrants that any material and/or communication transmitted, hosted, or otherwise processed using the Data Service will not be menacing, of a junk mail or spam like nature, illegal, obscene, threatening, defamatory, discriminatory, promote illegal or unlawful activity, or be otherwise actionable or in violation of any rules, regulations, or laws to which the Data Service is subject, and will not infringe the Intellectual Property Rights of Abzorb or any third party. The Customer will indemnify and keep Abzorb fully indemnified against all costs, claims, demands, expenses and liabilities arising out of or in connection with any breach or reasonably suspected breach of this clause 8.4.

9. CUSTOMER BREACH

If Abzorb's performance of its obligations under the Contract is prevented or delayed by any act or omission of the Customer or the Customer's agents, sub-contractors or employees, the Customer shall pay to Abzorb on demand all reasonable costs, charges or losses sustained or incurred by it (including, without limitation, any direct or indirect consequential losses, loss of profit and loss of reputation, loss or damage to property, injury to or death of any person and loss of opportunity to deploy resources elsewhere).

10. ABZORB'S OBLIGATIONS

10.1 Abzorb shall use reasonable endeavours to manage and complete the Project, and to provide the Data Services to the Customer, in accordance in all material respects with any agreed service levels.

10.2 Abzorb shall use reasonable endeavours to meet the performance dates specified in the Service Order, but any such dates shall be estimates only and time shall not be of the essence of the Contract.



10.3 Abzorb shall use reasonable endeavours to remedy any faults with the Service in accordance with Schedule 1.

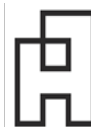
10.4 The provisions of Schedule 2 shall apply.

11. SERVICE SUSPENSION

11.1 Abzorb may suspend the Service by giving reasonable notice to the Customer, or if this is not practicable, such notice as is reasonably practicable in the circumstances, if Abzorb deems such suspension reasonably necessary, and without limiting the generality of the foregoing Abzorb may suspend the Service for the following reasons:

- (a) operational reasons;
- (b) if required because of a regulatory or change to applicable laws;
- (c) if Abzorb is obliged to comply with the order, instruction, or request of a court, government, agency, emergency service organisation, or other competent administrative or regulatory authority, requiring suspension to the Service;
- (d) if the Customer's use of the Data Service may damage or disrupt the proper functioning of the infrastructure and / or equipment used to provide services to Abzorbs other customers;
- (e) if Abzorb acting reasonably believes that the Customer is in breach of its obligations, and the Customer fails to remedy that breach or fails to demonstrate to Abzorb's reasonable satisfaction that no breach took place within two (2) Business Days of written notice of the suspected breach for a serious breach (serious breach to include, without prejudice to the generality of the foregoing, a breach which may cause serious damage to Abzorb or its brand or business, or that of Abzorb's contractors, or result in legal action by a third party) or within ten (10) Business Days of written notice of the suspected breach for other breach; or
- (f) if an undisputed invoice (or an undisputed part of an invoice) is not paid in full by the due date, provided that Abzorb has given the Customer at least five (5) Business Days' notice of such non-payment.

11.2 During any period of suspension of the Services Abzorb shall not be obliged to comply with any of its obligations set out in Schedule 1 and Schedule 2. Such suspension of the Services shall continue for as long as Abzorb deems it reasonably necessary.



12. ALTERATION TO SERVICES

- 12.1 If either party wishes to change the scope of the Services, it shall submit details of the requested change to the other in writing.
- 12.2 If either party requests a change to the scope or execution of the Services, Abzorb shall, within a reasonable time, provide a written estimate to the Customer of:
- (a) the likely time required to implement the change;
 - (b) any variations to Abzorb's charges arising from the change; and
 - (c) any other impact of the change on the terms of the Contract.
- 12.3 If Abzorb requests a change to the scope of the Services, the Customer shall not unreasonably withhold or delay consent to it.
- 12.4 If the Customer wishes Abzorb to proceed with the change, Abzorb has no obligation to do so unless and until the parties have agreed in writing on the necessary variations to its charges and any other relevant terms of the Contract to take account of the change.

13. EQUIPMENT

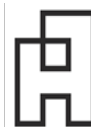
- 13.1 Full risk of damage to, or loss of Equipment shall pass to the Customer on delivery.
- 13.2 All Equipment provided by Abzorb in connection with the Services shall at all times remain the property of Abzorb and ownership of the Equipment shall not at any time pass to the Customer and the Customer acknowledges that such Equipment is provided on a loan only basis.
- 13.3 The Customer shall hold the Equipment on a fiduciary basis as Abzorb's bailee and grants Abzorb, its agents and employees an irrevocable licence at any time to enter any premises where the Equipment is or may be located in order to inspect it, or where the Customer's right to possession has terminated, to remove it. All costs incurred by Abzorb in repossessing the Equipment shall be borne by the Customer.
- 13.4 The Customer must notify Abzorb immediately if any Equipment fails to materially comply with the manufacturer's specifications. Abzorb will replace the Equipment if Abzorb considers the Equipment in question to be defective.



- 13.5 Where a fault reported is deemed to be caused by a router provided by Abzorb, Abzorb will replace this. Abzorb will despatch a new router to the Customer as soon as possible, pre-configured with the username and password and any IP Addressing requested on the original order. The Customer will pay Abzorb the charge for the new router at the rate specified by Abzorb, such charge to be credited to the Customer on receipt by Abzorb of the original faulty router (provided that any such fault has not arisen as a result of any damage caused by the Customer). If the router is outside of the warranty period, Abzorb will provide a new router and the new router will be chargeable in accordance with the tariff applicable at the time.
- 13.6 Where Abzorb agrees the Customer may provide its own router the Customer shall at its cost, be responsible for repairing, maintaining, and replacing any equipment that no longer operates in accordance with its manufacturer's specifications. Where the Customer replaces any equipment used in connection with the Services, the replacement shall be (i) equivalent to the original's functionality and performance, and (ii) must be approved by Abzorb in writing before it is installed. The Customer will be responsible, at its cost, for (i) reconfiguring any replacement of the Equipment to the same or equivalent configuration as the original (if agreed by the parties, such reconfiguration work may be provided by Abzorb as a professional service at Abzorb's current standard rates), and (ii) installing such reconfigured replacement in place of the original.
- 13.7 Any impact on the Services caused by substandard performance or non-availability of the equipment provided by the Customer shall be excluded from Abzorb's obligations set out in Schedule 1 and Schedule 2, and such exclusion shall continue until the equipment is put in a working order and functioning and performing to a level satisfactory to Abzorb.
- 13.8 On termination of this Contract (howsoever arising) the Customer shall return the Equipment to Abzorb in good repair and working order.

14. CHARGES AND PAYMENT

- 14.1 Condition 14.2 shall apply if the Services are to be provided on a time-and-materials basis. Condition 14.3 shall apply if the Services are to be provided for a fixed price. The remainder of this condition 14 shall apply in either case.
- 14.2 Where the Services are provided on a time-and-materials basis:
- (a) the charges payable for the Services shall be calculated in accordance with Abzorb's standard time based fee rates as amended from time to time;



- (b) Abzorb shall be entitled to charge at an overtime rate of 150% of the normal rate for time worked by it and its subcontractors outside the hours of 9am to 5pm on weekdays (which are not public or bank holidays in England); and
 - (c) Abzorb shall invoice the Customer monthly in arrears for its charges for time, expenses and materials (together with VAT where appropriate) for the month concerned, calculated as provided in this condition 14.
- 14.3 Where the Services are provided for a fixed price the total price for the Services shall be the amount set out in the Service Order (save where these conditions permit amendment to the price).
- 14.4 Unless otherwise specified in the Service Order, the Customer must pay Abzorb the Service Fee monthly in advance each month on the date specified in the invoice from Abzorb, the first payment of which shall include the Installation Fee.
- 14.5 The Customer must pay any applicable usage fees as set out in Abzorb's tariffs from time to time in connection with the Services monthly in arrears on the date specified in the invoice from Abzorb.
- 14.6 Unless otherwise agreed by the parties in writing, any discount specified in the Service Order shall apply only during the Initial Term and shall not apply during any continuation of this contract after the expiry of the Initial Term.
- 14.7 Abzorb may amend and/or increase the Service Fees:
 - (a) on an annual basis after the expiry of the Initial Term, such amendment and/or increase to take effect from the day following expiry date of the Initial Term and each anniversary thereof should Abzorb so determine in line with the percentage increase in the Retail Prices Index in the preceding 12 month period, with any increase based on the latest available figure for the percentage increase in the Retail Prices Index at the beginning of the last month of the previous 12 month period;
 - (b) at any time with immediate effect where Abzorb notifies the Customer that such an increase is as a result of an increased costs of providing the Services outside of Abzorb's control.
- 14.8 All amounts due under this agreement shall be paid by the Customer to Abzorb in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).



- 14.9 The Customer shall pay each invoice submitted to it by Abzorb in full, and in cleared funds, on the later of:
- (a) the due date for payment; or
 - (b) the date that is 10 days of receipt of the invoice in respect of the relevant supply.
- 14.10 Without prejudice to any other right or remedy that Abzorb may have, if the Customer fails to pay Abzorb on the due date Abzorb may:
- (a) charge interest on such sum from the due date for payment at the annual rate of 8% above the base lending rate from time to time of Barclays Bank PLC, accruing on a daily basis and being compounded quarterly until payment is made, whether before or after any judgment
 - (b) charge all reasonable administration and legal costs in respect of the recovery and/or enforcement of the amounts unpaid to Abzorb; and
 - (c) suspend all Services until payment has been made in full.
- 14.11 Time for payment shall be of the essence of the Contract.
- 14.12 All payments payable to Abzorb under the Contract shall become due immediately on termination of the Contract, despite any other provision. The Customer shall be liable to pay the balance of the Service Fees owed for the remainder of the Initial Term or any Extension Term (as the case may be) on termination howsoever arising. This condition is without prejudice to any right to claim for interest under the law, or any such right under the Contract.
- 14.13 Abzorb may, without prejudice to any other rights it may have, set off any liability of the Customer to Abzorb against any liability of Abzorb to the Customer.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 All Intellectual Property Rights and all other rights in the Services shall be owned by Abzorb.
- 15.2 The Customer shall not use any corporate marks or branding of Abzorb nor register or attempt to register as a trade mark, company name or domain name anything similar or confusing with Abzorb's corporate marks or logos.



16. CONFIDENTIALITY AND ABZORB'S PROPERTY

- 16.1 The Customer 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 Customer by Abzorb or its agents, and any other confidential information concerning Abzorb's business or its products which the Customer may obtain. The Customer shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know it for the purpose of discharging the Customer's obligations to Abzorb, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind the Customer.
- 16.2 All materials, equipment and tools, drawings, specifications and data supplied by Abzorb to the Customer shall at all times be and remain the exclusive property of Abzorb, but shall be held by the Customer in safe custody at its own risk and maintained and kept in good condition by the Customer until returned to Abzorb, and shall not be disposed of or used other than in accordance with Abzorb's written instructions or authorisation.
- 16.3 This condition 16 shall survive termination of the Contract, however arising.

17. LIMITATION OF LIABILITY

- 17.1 The following provisions set out the entire financial liability of Abzorb (including without limitation any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer in respect of:
- (a) any breach of the Contract howsoever arising;
 - (b) any use made by the Customer of the Services or Equipment or any part of them; and
 - (c) any representation, misrepresentation (whether innocent or negligent), statement or tortious act or omission (including without limitation negligence) arising under or in connection with the Contract.
- 17.2 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Contract.
- 17.3 Nothing in these conditions excludes the liability of Abzorb:
- (a) for death or personal injury caused by Abzorb's negligence; or
 - (b) for fraud or fraudulent misrepresentation.



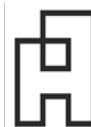
17.4 Without prejudice to condition 17.2, condition 17.3 and Schedule 2 (Service Credits):

- (a) Abzorb shall not in any circumstances be liable, whether in tort (including without limitation for negligence or breach of statutory duty howsoever arising), contract, misrepresentation (whether innocent or negligent) or otherwise for:
 - (i) loss of profits; or
 - (ii) loss of business; or
 - (iii) depletion of goodwill or similar losses; or
 - (iv) loss of anticipated savings; or
 - (v) loss of goods; or
 - (vi) loss of contract; or
 - (vii) loss of use; or
 - (viii) loss or corruption of data or information; or
 - (ix) any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses.
- (b) Abzorb's total liability in contract, tort (including without limitation negligence or breach of statutory duty howsoever arising), misrepresentation (whether innocent or negligent), restitution or otherwise, arising in connection with the performance or contemplated performance of the Contract shall be limited to the price paid for the Services.

18. TERMINATION

18.1 Without prejudice to any other rights or remedies to which the parties may be entitled, or to any other terms of the contract, Abzorb may terminate the Contract without liability to the Customer if:

- (a) the Customer fails to pay any amount due under this agreement on the due date for payment and remains in default not less than seven days after being notified in writing to make such payment;
- (b) the Customer commits a material breach of any other term of this agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 28 days after being notified in writing to do so;
- (c) the Customer repeatedly breaches any of the terms of this agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this agreement;
- (d) the Customer 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 is



deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- (e) the Customer 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 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 that other party;
- (f) a petition is 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 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 that other party;
- (g) 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;
- (h) the holder of a qualifying floating charge over the assets of the Customer has become entitled to appoint or has appointed an administrative receiver;
- (i) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (j) a creditor or encumbrancer of the Customer attaches or takes 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 the Customer's assets and such attachment or process is not discharged within 14 days;
- (k) any event occurs, or proceeding is 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 condition 18.1(d) to condition 18.1(j) (inclusive);
- (l) the continued provision of the Services would put Abzorb in breach of any legislation, regulations or direction from OFCOM, any statutory successor or other relevant regulatory body.

18.2 The Customer may terminate this Contract with immediate effect by giving notice to Abzorb if there is a price increase pursuant to clause 14.7(b).

18.3 On termination of this Contract the Customer shall forthwith pay Abzorb the balance of the Service Fees that would have been payable by the Customer to Abzorb from the date of termination to the last day of the Initial Term or to the last day of any subsequent Continuation Term (as the case may be) together with any other payments owing to Abzorb.



18.4 Any provision of this Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this agreement shall remain in full force and effect.

18.5 Termination of this Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination.

19. FORCE MAJEURE

Abzorb shall not in any circumstances have any liability to the Customer under the Contract if it is prevented from, or delayed in, performing its obligations under the Contract or from carrying on its business by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Abzorb 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 Abzorbs or sub-contractors.

20. WAIVER

No failure or delay by a party to exercise any right or remedy provided under this agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the 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.

21. RIGHTS AND REMEDIES

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

22. SEVERANCE

22.1 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.

- 22.2 If 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.

23. ENTIRE AGREEMENT

- 23.1 This agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 23.2 Each party acknowledges that in entering into this agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement.
- 23.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this agreement.

24. ASSIGNMENT

- 24.1 The Customer shall not, without the prior written consent of Abzorb, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.
- 24.2 Abzorb may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under the Contract.

25. NO PARTNERSHIP OR AGENCY

Nothing in the Contract is intended to or shall operate to create a partnership between the parties, or to authorise either party to act as agent for the other, and neither party shall have authority to act in the name or on behalf of or otherwise to bind the other in any way (including without limitation the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).



26. THIRD PARTY RIGHTS

No one other than a party to this agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

27. NOTICES

27.1 Save as otherwise provided in these conditions, any notice given to a party under or in connection with this Contract shall be in writing and shall be:

- (a) delivered by hand or by pre-paid first-class post or other next Business Day delivery service at its registered office; or
- (b) sent by fax to its main fax number; or
- (c) sent by email to the email address of the relevant party stated in the Service Order.

27.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;
- (b) if sent by pre-paid first-class post or other next Business Day delivery service, at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service;
- (c) if sent by fax or email, at 9.00 am on the next Business Day after transmission.

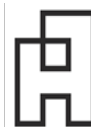
27.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

28. GOVERNING LAW

The Contract and any disputes or claims arising out of or in connection with it or its subject matter or formation (including without limitation non-contractual disputes or claims) are governed by and construed in accordance with the law of England and Wales.

29. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales 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).



Schedule 1 Service repairs

1. REPAIR TIME

- 1.1 All faults in respect of the Data Service notified by the Customer to Abzorb (**Fault**) in accordance with the fault management process set out below (**Fault Management Process**) shall be categorised by Abzorb, acting reasonably given the nature of the Fault, in accordance with the following definitions and, upon request from the Customer, Abzorb shall notify the Customer of the categorisation of the Fault and of the target time to repair (**Target MTTR**).

Fault Category	Description
Critical Fault	Total Loss of Service
Minor Fault	A fault which is not a Critical Fault

- 1.2 Where a repair requires Abzorb to attend the Site and access is denied or unavailable, Abzorb will suspend the Target MTTR for such period until access has been granted.
- 1.3 Where a permanent solution is not possible within the Target MTTR, Abzorb may provide an alternate solution to ensure that the Services are restored within the Target MTTR.
- 1.4 Where the Fault requires a permanent solution which requires planned outage, Abzorb shall carry out such permanent solution and the time for carrying out such repair shall be agreed between the parties.



Schedule 2 Service Credits

1. SERVICE CREDITS

Where Abzorb has failed to repair a Critical Fault within the Target MTTR, the Company will credit the Customer by reducing the Charges payable for the affected Data Service, excluding broadband services, for the following month by the amount set out in the table below (**Service Credit**), calculated by reference to the number of hours by which we have failed to meet the Target MTTR.

Total Business Hours in a month by which the Company has failed to meet the Target MTTR for a Critical Fault	Service Credit
0-4 Hours	An amount equivalent to one (1) day of the monthly fee payable for the affected Data Service (per circuit affected)
4-8 Hours	An amount equivalent to two (2) days of the monthly fee payable for the affected Data Service (per circuit affected)
8-16 Hours	An amount equivalent to three (3) days of the monthly fee payable for the affected Data Service (per circuit affected)
16+ Hours	An amount equivalent to five (5) days of the monthly fee payable for the affected Data Service (per circuit affected)



2. CLAIMING SERVICE CREDITS

- 2.1 All claims for Service Credits must be submitted by the Customer to Abzorb within thirty (30) days from the date on which the Customer notified Abzorb of the Fault to which such Service Credit relates in accordance with the Fault Management Process.
- 2.2 Any Service Credit which is to be applied against the following monthly fee for the Data Service will be confirmed by credit note issued by Abzorb to the Customer.