

Agreement for the Supply of Equipment and/or Services

BETWEEN (a) F ONE TECHNOLOGIES Limited, a company incorporated in England and Wales with Company Number 08394387 whose registered office is at First Floor Roman Landing, 35-37 St Marys Place, Southampton, Hampshire, SO14 3HY ("F One Technologies"); and (b) the Customer whose name and address is set out on the Order. F One Technologies and the Customer are individually referred to as a "Party" and collectively as the "Parties".

The Order, Standard Terms and the applicable schedule (if any) shall form a contract between the Parties ("Agreement"). If there is any ambiguity or conflict in the terms, priority shall be given to the terms in the Order, then the Standard Terms and then the schedule.

This Agreement shall become effective on the date on which it is Accepted by an authorised representative of F One Technologies ("Effective Date").

Your attention is particularly drawn to the limitation of liability and indemnities in clauses 16 and 18.

Standard Terms

1. DEFINITIONS

"Acceptance" means the fully informed and written acceptance by an authorised representative of F One Technologies of an Order and "Accepted" shall be construed accordingly.

"Billing Limit" means a limit on the amount the Customer may be charged for provision of a mobile telephony service in respect of each billing period.

"Charges" means the charges payable by the Customer for Services under this Agreement.

"Commencement Date" means the date upon which the services to be provided by F One Technologies under a particular Order are first provided to the Customer.

"Component" means a component element of the Equipment.

"Equipment" means hardware supplied by F One Technologies under this Agreement.

"End-User Licensed Software" means any software, the licence terms for which are governed by a separate agreement with the licensor.

"Fair Wear and Tear" means the ordinary use of the Equipment in accordance with its Specification and any instructions issued by the manufacturer. For the avoidance of any doubt, Fair Wear and Tear is not damage, defects or faults arising from (but not limited to) to:

- (a) accidents;
- (b) use outside of the Equipment's normal operational limits;
- (c) continued use of Equipment that is in need of repair;
- (d) contamination, submergence, ingress or impact;
- (e) storage outside the Equipment's specified parameters;
- (f) solar and/or particle radiation;
- (g) electrostatic, electrical and magnetic stress;
- (h) incorrect fitment of accessories other than by or on behalf of F One Technologies;
- (i) unauthorised or improper repair, configuration, programming; or
- (j) continued use of Equipment requiring an essential hardware or software update.

"GSM Gateway" means a device (not designed or adapted to be capable of being used whilst in motion) for wireless telegraphy designed or adapted to be connected by wireless telegraphy to the F One Technologies' wireless telecommunications network or the wireless telecommunications system of another network operator and used solely for the purpose of sending and receiving messages conveyed by means of the F One Technologies wireless telecommunications.

"Lead Time" means the time estimated by F One Technologies for performance or delivery of the Services and/or Equipment or any part thereof.

"Line" means a connection to the Network.

"Network" means a fixed line telecommunications network or mobile network, as appropriate.

"Network Operator" means the network operator that operates the Network.

"Order" means an offer submitted by a Customer in response to a Quote.

"Premises" means the place to which the Services are or will be provided and/or the Equipment delivered.

"Price" means the price payable by the Customer for Equipment under this Agreement.

"Price List" means the list of prices in force from time-to-time for Equipment and Services charged by F One Technologies.

"Quote" means the invitation from F One Technologies to the Customer to make an offer for Services and/or Equipment.

"Services" means the services provided by F One Technologies under this Agreement and "Service" shall be construed accordingly.

"Settlement Charge" means, where included in the Order:

- (a) an amount that F One Technologies has agreed to reimburse to the Customer or to reduce the Charges and/or the Price by in respect of an Order in full or part settlement of the Customer's contractual liability with third parties so that:
 - (i) the Customer can transfer the provision of services received to F One Technologies or replace them with the Services; and/or
 - (ii) the Customer can settle any finance agreement in place between the Customer and a third party for equipment to be replaced by the Equipment; and
- (b) the amount that will be recovered by F One Technologies:

- (i) in accordance with any payment schedule agreed between the Customer and F One Technologies for the relevant Services; and/or
- (ii) in the Price for Equipment.

"Software" means the object code version only of any software supplied by F One Technologies to the Customer by F One Technologies for use in connection with the Services.

"Specification" means the manufacturer's or F One Technologies' supplier's technical specifications for Equipment or Services supplied by F One Technologies under this Agreement.

"Working Hours" means from 0900hrs to 1700hrs on a weekday that is not a bank or public holiday in England.

2. ORDER PROCESS

- 2.1. At the request of the Customer, F One Technologies will provide a Quote containing Services, Equipment, Charges, Price and Lead Times.
- 2.2. To make an offer in response to a Quote, the Customer may submit a signed Order to F One Technologies.
- 2.3. A contract for F One Technologies to provide goods or services shall only come into force on valid Acceptance.
- 2.4. Representations concerning the Services or Equipment are not valid unless given in writing and signed by a duly authorised officer of F One Technologies. The Customer agrees that it does not rely on any other representations.
- 2.5. The Customer must accompany an Order with sufficient information, including, as appropriate and necessary, confirmation of any licensing requirements and/or other authorisations and any engineering, technical or other information, to enable F One Technologies to proceed with any and all of its obligations under this Agreement.

3. CONTRACT & TERM

- 3.1. This Agreement will subsist for the duration of the Services and/or Equipment supply as set out in this Agreement.
- 3.2. Every Order is subject to these Standard Terms which may not be modified or varied unless in writing by an authorised representative of F One Technologies. A list of F One Technologies' authorised representatives is available on request by phone or email. These Standard Terms shall prevail over any other conditions that may be submitted by the Customer at any time. F One Technologies reserves the right to reject any order received from the Customer in its absolute and sole discretion.
- 3.3. Any descriptive material provided by F One Technologies to the Customer does not form part of this Agreement or of any other contract and F One Technologies is not responsible for its contents. The Customer acknowledges that it is responsible for selecting Services and/or Equipment to satisfy its requirements including interoperability with other services, equipment or software not supplied by F One Technologies.
- 3.4. Each Order that is Accepted shall be regarded as a separate contract.
- 3.5. Unless otherwise set out in an Order, the minimum term during which the Services shall be supplied shall be:
 - (a) twenty four (24) months for mobile telephony; and
 - (b) eighty four (84) months for all other Services,

from the Commencement Date ("Minimum Term"). Thereafter this Agreement shall continue to be effective for further periods of:

- (a) thirty (30) days for mobile telephony; and
- (b) twelve (12) months for all other Services,

(each a "Subsequent Term") unless terminated by the Customer giving F One Technologies not less than:

- (c) thirty (30) days' written notice for mobile telephony, such notice to expire only after the end of the Minimum Term; and
- (d) six (6) months' written notice for all other Services, such notice to expire at the end of the Minimum Term or at the end of a Subsequent Term, and given in accordance with clause 27.

4. PROVISION OF SERVICES AND EQUIPMENT

- 4.1. F One Technologies warrants that it will perform the Services with reasonable care and skill and that the Services and Equipment will materially conform to the Specification unless specified otherwise in this Agreement.
- 4.2. The Customer acknowledges and accepts that:
 - (a) the provision and performance of Services is subject to, and may be adversely affected by, factors outside of F One Technologies' control, including but not limited to third party suppliers of services, local geography, topography, atmospheric conditions and/or other physical or electromagnetic interference and the number of users accessing the Services in a particular location.
 - (b) Services connection and transmission speeds set out in this Agreement and/or any marketing or advertising collateral are the maximum achievable and are subject to, amongst other factors, traffic shaping by the Network Operator, geographic location, Line quality, distance from telephone exchange, Network capacity, the number of subscribers sharing a Network and the number of people accessing any particular website.
 - (c) upload speeds will always be slower the download speeds and F One Technologies does not warrant a particular upload speed due to the nature of the Services.
 - (d) F One Technologies does not warrant the accuracy and/or reliability of data derived by a Global Positioning System ("GPS"). The GPS accuracy statistics set out in the Specification, where relevant, can only be achieved under certain conditions, e.g. open space, sufficient number of satellites visible, signal levels above acceptable magnitude, etc. and as such, inaccurate data may be output by the GPS where all relevant conditions are not met. The Parties agree and acknowledge that data provided by the GPS is for reference only.
- 4.3. F One Technologies will use reasonable efforts to provide the Services in accordance with any Lead Times given although time for delivery shall not be of the essence.

- 4.4. F One Technologies shall be entitled to:
- (a) change the Specification of the Services and Equipment where necessary, including for operational reasons and to comply with statutory or regulatory requirements, provided that any change to the Specification does not materially affect the performance of the Services;
 - (b) amend the terms of this Agreement as a consequence of changes imposed by third party manufacturers, suppliers or a regulatory body and F One Technologies will provide the Customer with as much notice of any amendment as is reasonably practicable and permitted by law;
 - (c) change any codes, IP addresses and/or telephone numbers allocated to the Customer; and/or
 - (d) give the Customer instructions which it believes are necessary for reasons of health or safety or to maintain the quality of the Services provided by F One Technologies to the Customer or any third party.
- 4.5. F One Technologies offers no warranty or condition of any kind whatsoever in respect of any Equipment manufactured or any software provided by a third party.
- 4.6. All warranties and conditions (including the conditions implied by ss 12–16 of the Supply of Goods and Services Act 1982 and ss 13–15 of the Sale of Goods Act 1979), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.
- 4.7. F One Technologies hereby assigns to the Customer, as far as it may do so, the benefit of any manufacturer's warranty in respect of any Equipment or software provided to the Customer.
- 4.8. Notwithstanding any other term or condition of this Agreement, the provision by F One Technologies of the remedies specified in this clause 4 shall be the Customer's sole and entire remedy in respect of the Services and/or Equipment.
- 4.9. F One Technologies does not provide any service quality levels except as set out in this Agreement.
- 4.10. F One Technologies provides the usual access to emergency organisations and does not limit the Customer's provision of access to emergency organisations through use of the Services unless at the Customer's request.

5. PAYMENT TERMS, PRICE AND INVOICING

- 5.1. The Charges and Price payable by the Customer to F One Technologies shall be:
- (a) as stated in the Order;
 - (b) as identified or referred to elsewhere in this Agreement; and/or
 - (c) as set out in the relevant invoice.
- 5.2. The Customer shall pay all amounts due to F One Technologies under this Agreement by monthly direct debit unless otherwise agreed in writing.
- 5.3. F One Technologies shall invoice the Customer on a monthly basis by email.
- 5.4. The first due date for monthly payments for Services shall start on the Commencement Date.
- 5.5. Unless otherwise agreed in writing between the Parties, Charges for any call traffic and additional usage or third party costs, including but not limited to using data while roaming, calls, texts and data use outside of any inclusive allowance, installation costs, engineer visits and aborted engineer visits, are payable by the Customer and may be invoiced by F One Technologies at any time after the end of the month in which they are incurred, whereupon payment shall be due.
- 5.6. For the avoidance of doubt, the Customer shall be liable for any and all telecommunication charges payable to any third party arising out of or in connection with the Customer's use of the Services.
- 5.7. Payment for all Equipment is due as follows where the Customer is funding the purchase:
- (a) the Customer shall pay 20% (twenty percent) of the Price due with the Order as a deposit. The Customer hereby acknowledges that in reliance on the Order F One Technologies shall place complementary orders on its suppliers and incur costs. As such, the deposit is non-refundable unless F One Technologies' does not Accept the Order; and
 - (b) the balance of the Price shall be due on delivery.
- 5.8. Rates applicable for telephony services (mobile or landline) shall be calculated by reference to F One Technologies' tariff structure (available on request by phone or email).
- 5.9. F One Technologies may alter the tariff structure referred to at clause 5.8 by giving at least 14 days' notice in writing unless a longer period is required to be given by law in which case at least the shortest time required shall be given.
- 5.10. The Charges shall be calculated by reference to data recorded or logged by F One Technologies and not by reference to any data recorded or logged by the Customer.
- 5.11. The Charges and Price are net and are exclusive of value added tax which shall be added at the prevailing rate and payable by the Customer.
- 5.12. No set-off or deduction may be made to amounts payable by the Customer under this Agreement.
- 5.13. Where payment other than by direct debit is due, all sums due to F One Technologies shall be payable by the Customer within fourteen (14) days of the date of the relevant invoice. F One Technologies shall have the right to payment on demand if the Customer fails to make payment of any invoice by its due date.
- 5.14. A charge of five pounds (£5) is payable by the Customer for each and every payment not taken by direct debit.
- 5.15. If the Customer's direct debit is required to be reinstated for any reason, the Customer shall pay a twenty five pound (£25) reinstatement administration fee.
- 5.16. All late payments shall incur a twenty pound (£20) late payment fee.
- 5.17. The Customer may specify or amend a Billing Limit for mobile telephony services (which shall not apply retroactively).
- 5.18. The Customer may exceed the Billing Limit if agreed after receiving notification from F One Technologies that the Billing Limit is likely to be reached before the end of the relevant billing period.

6. SETTLEMENT CHARGE

6.1. Where F One Technologies has agreed to pay the Customer a Settlement Charge:

- (a) the Customer hereby acknowledges that where the Settlement Charge is in respect of termination of services due from a third party and such services will not be delivered;
- (b) where the Settlement Charge is in connection with the supply of Services, F One Technologies shall pay the Settlement Charge within thirty (30) days from receipt by F One Technologies of the Customer's properly drawn invoice and a true copy of a valid invoice from the third party for terminating the services that third party provides in accordance with clause 8.1(a); and/or
- (c) where the Settlement Charge is in connection with the supply of Equipment, F One Technologies shall pay the Settlement Charge within thirty (30) days from receipt by F One Technologies of:
 - (i) an accurate and complete invoice from the Customer;
 - (ii) a true copy of a valid invoice from the third party for terminating the supply of Equipment that the third party provides; and
 - (iii) a certified copy of the Customer's lease for equipment to be replaced with the Equipment; and
- (d) the Settlement Charge will not exceed the lesser of:
 - (i) the amount properly due from the Customer to third parties solely due to F One Technologies commencing the supply of Services and/or F One Technologies supplying Equipment to replace equipment; and
 - (ii) the amount set out on the Accepted Order.

7. SUPPLY OF EQUIPMENT VIA A FINANCE COMPANY

7.1. The provisions of this clause 7 shall apply only in respect of Equipment and/or Services funded by a third party leasing company.

7.2. Payment for all Equipment and/or Services is due as follows where funded by a third party leasing company:

- (a) on completion of the installation, the Customer shall sign a Certificate of Acceptance ("COA"). F One Technologies will forward a signed copy of the COA to the third party leasing company which will release payment to F One Technologies.
- (b) the Customer shall not unreasonably withhold or delay signing the COA, including where the installation is substantially complete and the Equipment is substantially usable.
- (c) the Customer shall sign the COA if the installation cannot be completed due to the failure of or defect in any equipment not supplied by F One Technologies on which the installation is dependent. F One Technologies may remedy any defect or failure in such equipment subject to the Customer paying F One Technologies' then prevailing rates for any additional call-outs, engineering work or replacement equipment.
- (d) the Customer hereby confirms that it will not use any Equipment prior to signing the COA, other than to conduct reasonable tests to evidence the Equipment's performance.
- (e) in the event the Customer uses Equipment prior to signing the COA, the Customer irrevocably consents to F One Technologies signing the COA on its behalf and the Customer hereby confirms that it will have accepted the Equipment by conduct.
- (f) where the third party leasing company refuses to accept a COA signed by F One Technologies and without prejudice to clause 7.8, the full value of the Equipment will be immediately due and recoverable from the Customer as a debt.

7.3. Until payment for the Equipment is received by F One Technologies, the Customer shall, at its expense, insure the same with a reputable insurance company on an all risks basis for its full replacement value, and shall ensure that F One Technologies is named on the insurance policy.

7.4. F One Technologies may request the Customer to provide it with certificates of insurance. Certificates shall be provided within 5 (five) working days of such request. Failure to provide such certificates may be taken by F One Technologies to indicate that the Customer has failed to meet its obligations to provide the insurance cover required under this clause 7. The Customer shall, if requested, also provide F One Technologies with updated certificates on the renewal anniversaries of any policies required under this clause 7.

7.5. The Parties acknowledge that where Equipment and/or Services are supplied by F One Technologies to the Customer via a finance company, the terms and conditions of supply are exclusively governed by:

- (a) the contract between F One Technologies and the finance company; and
- (b) the contract between the Customer and the finance company.

7.6. For supply in accordance with this clause 7, the Order sets out Equipment and/or Services that F One Technologies will supply to the finance company for the benefit of the Customer, subject to acceptance of the Order by the finance company.

7.7. F One Technologies hereby confirms that in the absence of the Customer contracting for maintenance services directly with F One Technologies, F One Technologies will provide warranty services for the benefit of the Customer and as agreed with the finance company, and in any event on no less favourable terms as are set out in this Agreement.

7.8. The Customer acknowledges that subject to clause 7.1, the Price, the Charges and any Settlement Charge, in each case as set out in the Order, will be paid by the finance company to F One Technologies.

8. MOVING PREMISES OR NEW INSTALLATIONS

8.1. In the event the Customer vacates Premises at which any Equipment is located in which legal or beneficial title vests in F One Technologies, the Customer undertakes to inform in writing:

- (a) the landlord of the vacated Premises; and
- (b) any new occupier thereof, that the Services will be ceased by F One Technologies unless F One Technologies is contacted by the landlord or new occupier within seventy two (72) hours for the purpose of entering into a new agreement for services with F One Technologies.

8.2. In the event the Customer vacates Premises, the Customer agrees to take all necessary steps to assist F One Technologies to recover the Equipment from the Premises at F One Technologies' request.

9. GENERAL SUSPENSION AND TERMINATION PROVISIONS

- 9.1. F One Technologies may, where reasonable, from time to time and without notice suspend part or whole of the Services and at its discretion disconnect the Equipment in any of the following circumstances without prejudice to its other rights hereunder, provided that it shall use reasonable efforts to restore the Services and reconnect the disconnected Equipment as soon as reasonably practicable:
- (a) during any technical failure, modification or maintenance of any systems or Network by which part or whole of the Services are provided or on which part or whole of the Services are dependent;
 - (b) if the Customer allows to be done anything which in F One Technologies' reasonable opinion may have the effect of jeopardising the operation of part or whole of the Services, or part or whole of the Services are being used in a manner prejudicial to the interest of a third party and/or F One Technologies;
 - (c) due to an emergency or as instructed by emergency services or any government or appropriate authority (including the Network Operator) or for the Customer's own security; or
 - (d) the Customer fails to make any payment to F One Technologies on or before its due date.
- 9.2. F One Technologies may terminate this Agreement or any part thereof with immediate effect by notice in writing if:
- (a) the Customer ceases or threatens to cease to carry on the whole or substantially the whole of its business; or
 - (b) the Customer party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business.
- 9.3. F One Technologies shall have the right to cease provision of the Services to the Premises and terminate this Agreement and to recover any Equipment from the Premises after the seventy two (72) hour period outlined in clause 8.1.
- 9.4. F One Technologies may terminate this Agreement or any part thereof with immediate effect by notice in writing if an event of Force Majeure (as defined in clause 20.1) prevents F One Technologies from performing its material obligations for more than ninety (90) days.
- 9.5. F One Technologies may terminate this Agreement, the provision of the Services or Equipment or any part thereof at any time by serving not less than one month's prior written notice on the Customer specifying the Services or Equipment (or part thereof) that will no longer be provided and date of cessation.
- 9.6. F One Technologies may suspend this Agreement the provision of the Services or Equipment and/or at its discretion disconnect the Equipment or any part thereof with immediate effect by giving notice to the Customer either orally (confirming such notice in writing) or by serving notice in writing on the Customer if F One Technologies is entitled to terminate this Agreement or part thereof.
- 9.7. F One Technologies may suspend and/or terminate this Agreement, the provision of the Services or Equipment and/or at its discretion disconnect the Equipment or any part thereof with immediate effect by giving notice to the Customer either orally (confirming such notice in writing) or by serving notice in writing on the Customer if:
- (a) F One Technologies is entitled to suspend provision of any other telecommunications service under the terms of any other agreement between F One Technologies and the Customer;
 - (b) F One Technologies is obliged to comply with an order, instruction or request of Government, an emergency services organisation or other competent administrative or regulatory authority which affects its ability to provide the Service;
 - (c) maintenance or emergency works (as defined in Schedule 2 of the Telecommunications Act 1984) must be carried out on the Network or other equipment or for operational reasons;
 - (d) the Customer is in breach of clause 12.8;
 - (e) the Customer fails to make any payment to F One Technologies on or before its due date;
 - (f) the Customer is in default in its performance or observance of any of its obligations under this Agreement;
 - (g) F One Technologies at its sole discretion considers a breach of the Customer's obligations to be remediable and the Customer fails to remedy the breach within seven (7) days from receipt of a notice from F One Technologies specifying the breach and actions required to remedy;
 - (h) any licence or other agreement pursuant to which F One Technologies provides the Services expires or is revoked;
 - (i) a licence under which the Customer has the right to run its telecommunications system is revoked or amended (and not replaced by an equivalent licence or right) so that F One Technologies is not permitted by law to provide the Services;
 - (j) F One Technologies has reasonable cause to suspect fraudulent use of the Services or Equipment or Equipment is identified as being stolen; or
 - (k) F One Technologies reasonably believes that the Services are being used in a way that is prohibited by this Agreement.
- 9.8. In the event a suspension is implemented as a consequence of the breach, fault or omission of the Customer, the Customer shall reimburse F One Technologies for all reasonable costs and expenses incurred in the implementation of such suspension and/or the recommencement of the provision of the Services as appropriate.
- 9.9. F One Technologies shall not be liable for any loss, damage or inconvenience suffered by the Customer as a result of any suspension pursuant to clause 9.1 or 9.6.
- 9.10. During any period of suspension arising from the circumstances detailed at clause 9.1 or 9.6 in the Standard Terms, the Customer shall remain liable for all Charges levied in accordance with this Agreement.
- 9.11. Termination and/or suspension of the Services and disconnection of Equipment (in whole or in part) shall not affect any then pre-existing liability of the Customer under this Agreement or affect any right of F One Technologies to recover damages in respect of any breach by the Customer of the terms of this Agreement.

- 9.12. If the Customer seeks to terminate the Services other than in accordance with the Standard Terms and F One Technologies accepts such termination, or in the event this Agreement is terminated by F One Technologies due to the Customer's breach of this Agreement, including but not limited to non-payment, the Customer will pay to F One Technologies a sum equal to
- (a) Charges due but not paid as at the date of the early termination;
 - (b) all reasonably and necessarily incurred costs and charges arising to F One Technologies as a result of such termination, including but not limited to costs for F One Technologies ceasing services with its suppliers, which may be provided on request by phone or email;
 - (c) all amounts F One Technologies has paid or is committed to paying to third parties that have not been paid for by the Customer;
 - (d) as liquidated damages, a lump sum equivalent to the total of the minimum amount of the Charges and Price which would have become due for the period from the date of termination until the end of the Minimum Term or Subsequent Term which is not less than six (6) months after the date of termination as calculated on the day of termination.
- 9.13. The Customer hereby acknowledges and agrees that all costs and damages recoverable in accordance with clause 9.12 shall be recoverable by F One Technologies as a debt due from the Customer and agrees that the liquidated damages in clause 9.12 are a genuine pre-estimate of F One Technologies' probable loss.
- 9.14. In the event of termination of the Services the Customer shall, without prejudice to the Parties' accrued rights and obligations with respect thereto, stop using the Services on or before the date of termination.
- 10. DELIVERY OF SERVICES AND/OR EQUIPMENT**
- 10.1. The Customer acknowledges that time for delivery shall not be of the essence. Lead Times advised by F One Technologies shall not be binding and are indicative only unless expressly agreed in writing by an authorised representative of F One Technologies for a specific Order.
- 10.2. Delivery of Equipment takes place on the completion of unloading at the Premises.
- 10.3. In the event that the Customer requires delivery terms different from those contained herein, Parties may agree a separate delivery charge. If the delivery charge is accepted by the Customer in the manner prescribed, the delivery terms and charge to which it relates shall form part of this Agreement.
- 10.4. To enable F One Technologies to exercise its rights and fulfil its obligations under this Agreement including, if appropriate, installation at the Customer's premises of Equipment and/or equipment for the provision of the Services, the Customer shall, at its own expense and, where appropriate, in advance of any installation work:
- (a) permit or procure permission for F One Technologies and its representatives to have reasonable access to the Customer's premises and systems and/or any equipment provided by F One Technologies at all reasonable times and shall provide such reasonable assistance as F One Technologies shall request. F One Technologies will normally require access during Working Hours but may, on reasonable request, require the Customer to provide access at other times;
 - (b) obtain all necessary consents, including consents for any necessary alterations to buildings;
 - (c) provide a suitable environment, accommodation and foundations, including all necessary trunking, conduits and cable trays in accordance with the relevant installation standards;
 - (d) take up or remove any fitted or fixed floor coverings, ceiling tiles, suspended ceiling and partition covers as F One Technologies or its authorised representatives advise are necessary and afterwards carry out any making good or decoration work required;
 - (e) provide any electricity and connection points required by F One Technologies or its authorised representatives; and
 - (f) provide a suitable and safe working environment for F One Technologies' employees and anyone acting on F One Technologies' behalf.
- 10.5. The Customer is responsible for the safe keeping and proper operation of Equipment supplied and must not add to, modify or in any way interfere with the same, nor allow anyone else, other than as authorised by F One Technologies in writing, to do so. The Customer shall be liable to F One Technologies for any loss of or damage to such equipment, except where such loss or damage is due solely to Fair Wear and Tear or is caused by F One Technologies or anyone acting on its behalf.
- 10.6. In the event that F One Technologies is unable to deliver Equipment or perform its obligations hereunder as a result of the Customer's failure to comply with the provisions of clause 10.4, F One Technologies shall be entitled to:
- (a) place Equipment subject of the Order or part thereof into storage notwithstanding the packaging obligations below and charge a reasonable amount for the same to the Customer;
 - (b) suspend performance of its obligations without any liability whatsoever until the provision in clause 10.4 are complied with; and/or
 - (c) recover from the Customer all additional costs and expenses arising to F One Technologies and all losses and damages for which F One Technologies is or becomes liable.
- 10.7. Where the Customer is party to existing contracts for telecommunications services (e.g. line rental, broadband, fixed or mobile call traffic) with other providers of the Services which include minimum service periods, save to the extent of any Settlement Charge, the Customer is responsible for payment of any ongoing charges or termination charges as may be prescribed in existing contracts. Any such charges will be in addition to the Charges.
- 10.8. The Customer will inspect Equipment on receipt and advise F One Technologies of any damaged or missing items within seven (7) days by calling F One Technologies Customer Services. F One Technologies will despatch replacement Equipment and the Customer will return faulty or damaged Equipment to F One Technologies.
- 10.9. F One Technologies may supply additional or replacement Equipment to the Customer for the prices set out in the Price List.
- 10.10. In the event the Customer uses a modem, filters or any other equipment not supplied by F One Technologies, the Customer acknowledges and agrees that:
- (a) it does so entirely at its own risk;
 - (b) F One Technologies cannot and does not offer or provide any guarantee that Services will operate in conjunction with such Customer equipment; and
 - (c) F One Technologies cannot support any faults that may arise as a result of or in connection with the use of Customer equipment.
- 10.11. Notwithstanding the provisions of this clause 10, the Customer agrees and undertakes not to connect equipment to the Network that may harm the Network or any other person's equipment.

10.12. It is the Customer's responsibility to ensure that the Services do not affect any alarm system in the Premises. F One Technologies cannot be responsible for any loss or damage arising out from the Customer's failure to make adequate provision for security.

11. TITLE AND RISK

11.1. Title in all Equipment intended for purchase shall pass to the Customer upon F One Technologies' receipt of full payment.

11.2. Risk in the Equipment shall pass to the Customer on delivery.

11.3. Title in Software and the media in which it is embodied shall not pass to the Customer in any event.

11.4. Until title to the Equipment has passed to the Customer, the Customer shall:

- (a) store the Equipment separately from all other goods held by the Customer so that they remain readily identifiable as F One Technologies' property;
- (b) not remove, deface or obscure any identifying mark or packaging on or relating to the Equipment;
- (c) maintain the Equipment in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- (d) notify F One Technologies immediately if it becomes subject to any of the events listed in clause 9.2; and
- (e) give F One Technologies such information relating to the Equipment as F One Technologies may require from time to time.

11.5. If before title to the Equipment passes to the Customer the Customer becomes subject to any of the events listed in clause 9.2 or this Agreement is terminated, then, without limiting any other right or remedy the F One Technologies may have, F One Technologies may at any time:

- (a) require the Customer to deliver up all Equipment in its possession that have not been resold, or irrevocably incorporated into another product; and
- (b) if the Customer fails to do so promptly, enter, or instruct a third party to enter, any premises of the Customer or of any third party where the Equipment is stored in order to recover them.

11.6. Following any upgrade or replacement of Equipment or disconnection of Equipment from the Network, at F One Technologies' request, the Customer shall safely return any such Equipment in which F One Technologies retains title and any associated Software to F One Technologies at the Customer's expense.

11.7. The Customer undertakes in respect of Equipment in which F One Technologies retains title not to sell, transfer, lease, charge, assign by way of security or otherwise deal in or encumber the same in any way and that it shall keep such Equipment in good working order allowing for Fair Wear and Tear during the period of use by the Customer.

11.8. F One Technologies reserves the right to charge the Customer the cost of replacement or repair charges as set out from time to time in the Price List for any Equipment that is not returned to F One Technologies in accordance with or where the Customer fails to fulfil its obligations under this clause 11.

11.9. F One Technologies reserves the right to add to, substitute, or to discontinue any item of Equipment at any time. F One Technologies does not guarantee the continuing availability of any particular item of Equipment.

11.10. The Price List is available for inspection upon request by phone or email to F One Technologies.

12. CUSTOMER'S OBLIGATIONS

12.1. The Customer shall make payment to F One Technologies the amounts due under this Agreement.

12.2. The Customer shall notify F One Technologies promptly in writing, and in any event within 24 hours, should it become aware of any problems with the Services or Equipment.

12.3. The Customer recognises that the Services may be dependent upon End-User Licensed Software and that the Customer must accept such licence to use the Services.

12.4. The Customer shall obtain any permit or consent from the relevant authorities that may be required to import, operate or use Equipment subject of any Accepted Order.

12.5. The Customer acknowledges that if leasing Equipment, the terms of the lease shall apply in addition to the terms of this Agreement.

12.6. The Customer shall not permit any party other than the Customer to benefit from the Services.

12.7. The Customer undertakes to use the Services in accordance with:

- (a) such instructions and conditions as may be notified in writing to the Customer by F One Technologies from time to time;
- (b) the relevant provisions of the Telecommunications Act 1984 and/or any other applicable legislation; any direction of the Director General of Telecommunications or other competent authority; and any licence granted thereunder which applies to the running of a telecommunications system by the Customer;
- (c) Ofcom's General Conditions of Entitlement and all instructions and guidance issued by Ofcom;
- (d) F One Technologies' requests in order to comply with Ofcom's General Conditions of Entitlement and all instructions and guidance issued by Ofcom; and
- (e) such terms and conditions of any licensed telecommunications operator applicable to the Equipment or Line as notified by F One Technologies to the Customer from time to time.

- 12.8. Without limitation to the generality of clause 12.7, the Customer undertakes not to use the Services:
- (a) for any unlawful purpose;
 - (b) for the transmission, storing or reproduction of material which is defamatory, offensive, abusive or of an obscene or menacing character; or
 - (c) in a manner which violates or infringes the rights of any person, firm or company (including, without limitation, rights of copyright and confidentiality);
 - (d) as a means of communication for purposes other than that for its own normal business or domestic use;
 - (e) to establish, install or use a GSM Gateway so that telecommunication services are provided via the GSM Gateway to third parties;
 - (f) for resale or otherwise act as any form of distributor in respect of the Services or the Equipment; or
 - (g) fraudulently or in connection with a criminal offence.
- 12.9. For the avoidance of doubt, the Customer acknowledges that it has sole responsibility for the payment of all Charges relating to the use of the Services regardless of whether such use is authorised, unauthorised, fraudulent or otherwise. The Customer must inform F One Technologies as soon as reasonably practicable if it suspects that fraudulent or unauthorised use of the Services is occurring, although such notification will not limit the Customer's liability to pay the Charges as set out herein.
- 12.10. The Customer shall ensure that it, its representatives and those it directs shall not use or connect the Equipment other than in accordance with any instructions and any safety or security procedures applicable to the use of the Equipment at the direction of F One Technologies.
- 12.11. The Customer shall pay F One Technologies a reasonable charge for any third party costs incurred by F One Technologies where it reports a fault resulting in the attendance of an engineer and the fault is not with the Line, the Services, the Equipment or cannot be replicated.
- 12.12. The Customer shall pay F One Technologies for all third party costs incurred for installation and arranging the provision of the Services and Equipment, unless otherwise agreed in writing between the Parties.
- 12.13. The Customer will not allow an alternative supplier to override or bypass the Services either through the installation of equipment or through the local exchange or any next generation Network in the UK and the Customer will route all call traffic exclusively via F One Technologies during the validity of this schedule.
- 12.14. Where the Customer is provided with a username and password in order to access part or all of the Services. The Customer is responsible for keeping the username and password confidential and hereby agrees to take all necessary steps to ensure their confidentiality and to prevent disclosure to any unauthorised third parties. The Customer will inform F One Technologies immediately on becoming aware of or suspecting any unauthorised use of its username and password and agrees to take all necessary steps (or such steps as may be requested by F One Technologies) to prevent such use.
- 13. AMENDMENTS TO THE SERVICES**
- 13.1. If the Customer requests any change or changes to the Services, F One Technologies may ask the Customer to confirm its request in writing. If F One Technologies agrees to a change, the Services will be changed when F One Technologies confirms the change to the Customer in writing and this Agreement shall be amended as advised by F One Technologies to the extent contemplated by the agreed change to Services.
- 13.2. F One Technologies can amend the Charges or Price by notifying the Customer in writing at least one month before it takes effect.
- 13.3. Notwithstanding any other provision of this Agreement, in the event that F One Technologies' suppliers materially alter their terms of supply, F One Technologies may amend the terms of this Agreement to accommodate changes in its suppliers' terms on one month's notice in writing to the Customer, including but not limited to price increases imposed by suppliers.
- 14. INTELLECTUAL PROPERTY**
- 14.1. All intellectual property rights, including but not limited to the right to patent, copyright, trade marks and design rights in the Services and/or Equipment and/or arising and created under or in connection with this Agreement shall remain vested in and/or automatically and immediately upon creation vest in F One Technologies and/or its licensors.
- 14.2. Copyright in all documentation produced by F One Technologies vests in F One Technologies and may not be copied, broadcast, adapted or distributed without F One Technologies' fully informed prior written consent.
- 14.3. The Customer warrants that any design or instruction furnished or given to F One Technologies by the Customer shall not cause F One Technologies to infringe any third party intellectual property right in the performance of F One Technologies' obligations under this Agreement.
- 14.4. Save as provided in this clause 14, F One Technologies shall have no liability howsoever arising in respect of any infringement or alleged infringement of third party intellectual property rights.
- 15. SOFTWARE LICENCE**
- 15.1. F One Technologies hereby grants to the Customer a non-exclusive non-transferable licence to use the Software supplied to the Customer by F One Technologies in connection with and/or for the operation of the Services or Equipment, subject to the Customer's compliance with this clause 15. This licence shall not be construed, deemed or interpreted as giving the Customer any proprietary right in any Software.
- 15.2. The Customer shall not in relation to the Software or any documentation associated with the same do any of the following: copy, permit to be copied, de-compile, reverse engineer, translate, modify, disassemble, place on to the internet or any intranet, publish, decode, enhance, adapt, merge or reduce the Software into source code or any other low level language.
- 15.3. Notwithstanding the above, the Customer may make one back-up copy of the Software and any associated documentation for security purposes only.
- 15.4. In the event that the licence is terminated as a result of a breach by the Customer, then the Customer agrees to remove any non-licensed Software from its equipment and return, at its expense, or, if required, destroy any Software, back-up copies (to the extent that such back-up copies are no longer reasonably required by the Customer), associated documentation and information relating to the Software.
- 15.5. This clause 15 applies to all copies of the Software as it applies to the original copy.

16. FAULT REPORTING AND CUSTOMER SERVICES

- 16.1. To report a fault with the Services or Equipment the Customer should contact F One Technologies' customer services by phone on 02382023709 or email to service@fonetech.co.uk. The Customer will provide a full and accurate description of the fault. Action will be taken in response to Equipment faults in accordance with this clause 16.
- 16.2. On receipt of a fault report as set out at clause 16.1, F One Technologies will investigate and verify the fault. F One Technologies will use reasonable efforts to remedy any verified fault including the provision of technical advice, attendance by an engineer at the Premises or reporting the fault to the Network Operator.
- 16.3. Where a fault is reported to the Network Operator, F One Technologies will monitor the Network Operator's actions to remedy the fault and will provide the Customer with regular progress updates.
- 16.4. The Customer will ensure that F One Technologies' engineers and/or the Network Operator's engineers have the necessary access to the Premises required to identify or remedy any fault. The Customer will be liable for any costs incurred by F One Technologies if access is not provided in accordance with this clause and F One Technologies shall have no further obligations in respect of the fault.
- 16.5. The Parties acknowledge that faults may be due to the use of the Customer's equipment, the malfunction of Equipment and/or failure of the Network, or part thereof, and subject to varying degrees of complexity. As such, and due to the fact that F One Technologies may be reliant on Network Operators and/or other third parties to remedy a fault, F One Technologies does not guarantee that the Services will be uninterrupted or that any fault will be remedied within a fixed period of time.
- 16.6. The Customer shall be responsible for paying any and all of F One Technologies' charges to remedy a fault and F One Technologies' (or its representative's) reasonable costs to attend the Premises, including costs levied on F One Technologies by third parties, plus a reasonable administration fee.
- 16.7. The Customer's attention is expressly drawn to the fact that F One Technologies does not provide IT support such as programming or configuration services. The Services comprise only the provision of Equipment and its servicing.
- 16.8. The Customer agrees that F One Technologies shall not be liable for any loss of the Services due to scheduled downtime, emergency maintenance and/or access to the Network being prevented by the instruction of an authorised regulatory body.

17. LIMITATION OF LIABILITY

- 17.1. Nothing in this Agreement shall limit or exclude either Party's liability for death or personal injury caused by its own negligence or any other liability that may not be limited or excluded by law.
- 17.2. Subject to clause 17.1 and without prejudice to any other provision of this clause 17, to the fullest extent permitted by law F One Technologies hereby excludes any and all liability (whether direct or indirect) for:
- (a) loss of profits;
 - (b) loss of sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of use or corruption of software, data or information;
 - (f) loss of or damage to goodwill;
 - (g) indirect or consequential loss;
 - (h) loss of a chance;
 - (i) damage to goodwill; and
 - (j) loss of or damage to any other intangible asset.
- 17.3. F One Technologies' total liability for damage to tangible property arising under or in connection with this Agreement shall be limited to fifty thousand pounds (£50,000) for any one event and two hundred and fifty thousand pounds (£250,000) for any series of events arising from a common cause.
- 17.4. Subject to clause 17.1 and without prejudice to any other provision of this clause 17, the total aggregate liability of F One Technologies to the Customer under or in connection with this Agreement shall be no more than the amount paid by the Customer to F One Technologies in the preceding 12 months under this Agreement.
- 17.5. Subject to clause 17.1, and without prejudice to any other provision of this clause 17, F One Technologies shall not:
- (a) be responsible for the reliability or quality of any part of the Services that depends on, or is supplied by, other telecommunications operators, unless F One Technologies is at fault;
 - (b) be liable for the acts or omissions of other providers of telecommunication services unless such other providers have been specifically engaged by F One Technologies as subcontractors or assignees in respect of performing F One Technologies' obligations under this Agreement;
 - (c) be liable to the Customer for any failure to comply with its obligations under this Agreement to the extent that this liability arises as a result of the Customer's failure to fulfil its obligations under this Agreement or to comply with relevant rules, regulations or law;
 - (d) be liable for any loss, costs, expenses and or damages arising due to or in connection with the denying or withdrawing of any permit or consent in respect of the importing, distribution, reselling or operation of the Equipment; or
 - (e) be liable for any third party claims, damages, charges, costs or expenses arising due to the Customer's termination of any Services provided by a third party or the transfer of any Services to F One Technologies, save for an agreed Settlement Charge.
- 17.6. Subject to clause 17.1 and without prejudice to any other provision of this clause 16, in the event that F One Technologies fails to provide the Services and the Customer diverts traffic to another service provider, F One Technologies shall not be responsible for any costs or expenses arising as a result of such diversion of traffic including, without limitation, such service provider's charges.
- 17.7. Subject to clause 17.1 and without prejudice to any other provision of this clause 16, if the Customer does not accept the licence terms relating to any End-User Licensed Software, F One Technologies shall have no liability whatsoever for any failure to provide the applicable Services to the Customer where the Services depend on the use of End-User Licensed Software.

- 17.8. Subject to clause 17.1 and without prejudice to any other provision of this clause 16, in the event that F One Technologies fails to provide the Services and the Customer diverts traffic to another service provider, F One Technologies shall not be responsible for any costs or expenses arising as a result of such diversion of traffic including, without limitation, such alternative service providers' charges.
- 17.9. This clause 17 represents the entire liability of F One Technologies under or in connection with this Agreement and shall apply before and/or after any termination of this Agreement.

18. INDEMNITIES

18.1. The Customer shall indemnify F One Technologies and shall maintain or procure appropriate insurance for:

- (a) damage to F One Technologies' property:
 - (i) to fifty thousand pounds (£50,000) for any one event; and
 - (ii) two hundred and fifty thousand pounds (£250,000) for any series of events arising from a common cause; and
- (b) death and injury to persons to the extent caused by the negligence of the Customer or its personnel or contractors.

18.2. The Customer indemnifies and will keep F One Technologies fully and effectively indemnified against all and any losses, claims, damages, costs, charges, expenses and other liabilities which F One Technologies may sustain or incur or which may be brought or established against it by any person and which in any case arise out of or in relation to or by reason of:

- (a) any breach by the Customer of its obligations under this Agreement; and/or
- (b) the negligence, recklessness or unlawful misconduct of the Customer.

19. DATA PROTECTION

19.1. For the purposes of this clause 19, the following definitions apply:

Controller	shall have the meaning given in applicable Data Protection Laws from time to time;
Data Protection Laws	means, as binding on either party or the Services: <ul style="list-style-type: none"> (i) the GDPR (to the extent it continues to apply to the United Kingdom); (ii) the Data Protection Act 2018; (iii) any laws which implement any such laws; and (iv) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;
Data Subject	shall have the meaning in applicable Data Protection Laws from time to time;
GDPR	means the General Data Protection Regulation, Regulation (EU) 2016/679;
Personal Data	has the meaning given in the applicable Data Protection Laws from time to time;
Personal Data Breach	has the meaning given in the applicable Data Protection Laws from time to time;
processing	has the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including process , processed , and processes shall be construed accordingly);
Processor	has the meaning given to it in applicable Data Protection Laws from time to time.

- 19.2. The Customer agrees to comply with its obligations under Data Protection Laws.
- 19.3. The Customer warrants and undertakes that it has obtained all necessary consents and provided appropriate notices to allow for lawful transfer to and processing of any Personal Data by F One Technologies under or in connection with this Agreement.
- 19.4. The Customer may, acting as Data Controller pass or permit access to Personal Data to F One Technologies as Data Processor pursuant to this Agreement. Under this clause 19, any capitalised terms not otherwise defined shall have the meaning given in Data Protection Laws.
- 19.5. F One Technologies, where a Processor, shall:
- (a) only process such Personal Data for the purposes of performing its obligations under this Agreement and on the documented instructions of the Customer. In the event that a legal requirement prevents F One Technologies from complying with such instructions, F One Technologies shall, unless such legal requirement prohibits it from doing so, inform the Customer of the relevant legal requirement before carrying out the relevant processing activities;
 - (b) at all times, ensure that the necessary technical and organisational measures are in place to prevent unauthorised and unlawful processing or disclosure of such Personal Data and such measures shall include taking reasonable steps to ensure the reliability of any of its staff who may have access to Personal Data and ensuring that such staff are subject to appropriate confidentiality undertakings. F One Technologies shall, save where prohibited by law and as soon as reasonably practical, notify the Customer of any legal obligation which requires the Data Processor to disclose the Personal Data to a third party;
 - (c) send to the Customer any communications received from individuals in relation to their Personal Data as soon as reasonably practicable. F One Technologies shall provide reasonable co-operation to the Customer in relation to any individuals exercising their rights under the Data Protection Laws;
 - (d) provide reasonable assistance to the Customer in relation to its compliance with Data Protection Laws;
 - (e) take reasonable steps to ensure the confidentiality, integrity, availability and resilience of processing systems and services associated with the processing of such Personal Data;
 - (f) co-operate with and provide such information as the Customer may reasonably require to enable it to comply with its obligations under Data Protection Laws. Customer shall use all reasonable endeavours to minimise disruption to F One Technologies in exercising its rights under this sub-clause and shall submit to appropriate undertakings in respect of confidentiality;

- (g) notify the Customer without delay of any Personal Data Breach and provide reasonable assistance to the Customer with any investigation into and remediation of a Personal Data Breach. F One Technologies shall also provide the Customer with reasonable assistance with any notifications made to relevant authorities and / or individuals in relation to a Personal Data Breach;
 - (h) immediately cease processing the Personal Data and immediately supply or delete the Personal Data in accordance with the Customer's instructions;
 - (i) submit to audits and inspections carried out directly upon it by a supervisory authority or the Customer (no more often than once every twelve (12) months), and provide reasonable co-operation with any audits and inspections carried out upon the Customer; and
 - (j) inform the Customer immediately of any requests that, in its reasonable opinion, would involve infringing Data Protection Laws.
- 19.6. The Customer agrees that F One Technologies may appoint sub-processors to Process Personal Data under or in connection with this Agreement. To the extent that F One Technologies engages sub-processors, F One Technologies will:
- (a) provide a formal notification to the Customer prior to engaging a new sub-processor. It will be the Customer's responsibility to notify F One Technologies of any objection to the proposed sub-processor engagement. Failure to notify such objection will be considered to indicate acceptance of the proposed sub-processor change;
 - (b) enter into a written agreement with the sub-processor imposing data protection terms that require the sub-processor to protect such Personal Data to the standard required by Data Protection Laws; and
 - (c) remain fully liable for all acts or omissions of any sub-processor appointed by F One Technologies.
- 19.7. The Customer acknowledges that F One Technologies may make use of sub-processors based outside the EEA or United Kingdom. To the extent that F One Technologies transfers any Personal Data outside the EEA or United Kingdom as part of providing the Services, the Customer hereby agrees to such transfer provided that such transfer is made in compliance with applicable Data Protection Laws, including, if required, EU Model Clauses, certification under the EU-US Privacy Shield, or such other international transfer mechanism approved under Data Protection Laws.
- 19.8. F One Technologies shall maintain and keep up to date records detailing the location of all Personal Data processed by F One Technologies together with details of any third parties with whom F One Technologies has shared any Personal Data.

20. FORCE MAJEURE

- 20.1. F One Technologies shall not be responsible for any failure or delay in the performance of its obligations under or in connection with this Agreement caused by events outside of its reasonable control ("Force Majeure") including, but not limited to, an Act of God, weather of exceptional severity, refusal of licence (other than as a result of any act or omission of F One Technologies) or other Government act or omission, any act or omission of the Highways Authorities or other competent authority, war, military operations, terrorist action, riot, fire, explosion, accident, lightning damage, electromagnetic interference, denial of service, radio interference, strikes, industrial dispute, lockouts, the act or omission of any party for whom F One Technologies is not responsible.

21. ENTIRE AGREEMENT

- 21.1. The Parties agree that this Agreement constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
- 21.2. Other than in accordance with clause 13, no variation of this Agreement shall be valid or effective unless it is in writing, refers to this Agreement and is duly signed or executed by an authorised representative of F One Technologies.
- 21.3. Each Party acknowledges that in entering into this Agreement, it has not relied on any express or implied, oral or written representation, collateral contract, warranty or other assurance (except as included in this Agreement) and waives all rights and remedies which might otherwise be available to it in respect thereof, except that nothing in this Agreement will limit or exclude any liability of a party for fraud.

22. SEVERANCE

- 22.1. In the event that any provision of this Agreement should be held to be invalid or unenforceable by a court or administrative authority of competent jurisdiction:
- (a) such provision will be replaced with a provision that is not unenforceable or invalid and which, to the fullest extent permissible, gives effect to the intent of the provision that is held unenforceable or invalid; and
 - (b) the remaining provisions of this Agreement shall remain in full force and effect.

23. WAIVER

- 23.1. Unless expressly agreed between the Parties' authorised representatives, no admission, act or omission made by either Party shall constitute a waiver or release from any obligation or liability contained herein. Failure by either Party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement of any such or other right on any later occasion.

24. THIRD PARTY RIGHTS

- 24.1. Nothing in this Agreement confers or purports to confer any benefit on any third party or right to enforce any benefit by any third party in accordance with the Contract (Rights of Third Parties) Act 1999.

25. SURVIVAL

- 25.1. Rights accrued at the date of any termination of this Agreement and rights intended by their nature to survive termination shall survive any such termination of this Agreement.

26. CONFIDENTIALITY

- 26.1. The Customer will promptly provide to F One Technologies (free of charge) any information which F One Technologies may reasonably require to enable it to proceed with the performance of its obligations under this Agreement including any information which F One Technologies may reasonably request for the purposes of credit verification and debt collection. The Customer permits F One Technologies to use such information and to provide it to third parties acting on behalf of F One Technologies for such purposes.
- 26.2. Save as contemplated by this Agreement, neither the Customer nor F One Technologies will use any information of the other which is disclosed or otherwise comes into its possession under or in connection with this Agreement and which is of a confidential nature. This obligation will not apply to information which:
- (a) was already in the recipient's possession without any restrictions on its disclosure;
 - (b) is lawfully received from a third party without any restrictions as to disclosure;
 - (c) is in or comes into the public domain otherwise than through the default or negligence of the recipient;

- (d) is independently developed or derived by or for the recipient without reference to the confidential information; or
- (e) is disclosed or required to be disclosed by law or by order of a court or a competent administrative or regulatory authority.

26.3. Both Parties shall fully comply with data protection laws in force from time to time insofar as they relate to this Agreement and shall procure that their employees shall observe such laws.

26.4. This clause 26 shall remain in effect for two (2) years after the termination of this Agreement howsoever arising.

27. NOTICES

27.1. Any notice required or authorised to be given under this Agreement shall be delivered by special delivery (next day delivery) or by hand to the following addresses:

- (a) for F One Technologies: to F One Technologies' registered office address.
- (b) for the Customer: to the Customer at the address notified to F One Technologies as the address to which notices or invoices may be sent or the Customer's usual or last known address or its registered office address.

27.2. Any notice shall be deemed to have been made to the other Party

- (a) if delivered by hand, when delivered; or
- (b) if posted by special delivery post, on being signed for by the addressee.

27.3. The Customer will retain postal receipts for notice referred to at clause 27.2(b) and make them available to F One Technologies on request.

27.4. The Parties acknowledge, accept and agree that the postal receipts to be retained at clause 27.3 will serve as proof of notice being served in the event of a dispute. In the event that a notice is alleged to have been served by the Customer which is not received or acted on by F One Technologies, the Parties hereby agree that if the Customer is unable to provide proof of delivery of such written notice given in accordance with clause 27.3, a notice will not have been served.

28. NO PARTNERSHIP

28.1. Nothing in this Agreement shall create, or be deemed to create, a partnership between the Parties.

29. JURISDICTION, LAW AND DISPUTE RESOLUTION

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

29.2. In the event of any dispute in respect of the Services, the Customer is hereby advised of F One Technologies' complaints procedure available at www.fonetechnologies.co.uk ("Complaints Procedure").

29.3. All complaints will be dealt with in accordance with the Complaints Procedure.

29.4. Where a Customer has the right to arbitration in accordance with the Complaints Procedure and seeks the same and in other cases, where the Parties agree to arbitration, save in the event of manifest error or interpretation of a point of law, the award of the arbitration panel will be final and binding and not subject to challenge by either Party.

29.5. Where a dispute or the findings of an arbitration panel are subject to legal proceedings, each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this agreement or its subject matter or formation.

29.6. To the fullest extent permissible or as awarded by the arbitration panel or a Court, the Party prevailing in any arbitration or legal proceedings will be entitled to recover from the other Party all costs reasonably and necessarily incurred under clauses 29.4 and/or 29.5 above including reasonable legal and/or expert witness fees.

Schedule 1 Fixed Term Maintenance Services

1. CONTRACT

- 1.1. The Order, Standard Terms and this schedule shall form a contract between the Parties ("Agreement") for the provision of corrective or preventative hardware maintenance services to the Customer by F One Technologies ("Fixed Term Maintenance Services") and is a separate contract to that to provide any equipment.

2. DEFINITIONS

"Chargeable Programming Change" means:

- (a) a complex or time consuming change to certain functions or the operation of the Maintained Apparatus brought about by reprogramming its software and/or compiling data tables and carried out by F One Technologies at the Customer's request on a chargeable basis, including, but not limited to, changes to least cost routing tables; and/or
- (b) a Programming Change in excess of the quantities provided by F One Technologies at no additional charge as part of the Services.

"Maintain" means to ensure the functioning and operation of the Maintained Apparatus in accordance with its Specification by the repair or replacement of Components that are defective as a result of Fair Wear and Tear.

"Maintained Apparatus" means the equipment set out in the Accepted Order and marked to benefit from the Fixed Term Maintenance Services.

"Programming Change" means a non-complex change to certain functions or the operation of the Maintained Apparatus brought about by reprogramming its software and carried out by F One Technologies at no charge as part of the Services, such as speed dial and extension number changes, and carried out in the first year of the Services and/or on up to three (3) occasions per annum thereafter during the validity of this schedule.

"System Access Details" means the user name, password, modem DDI and IP address details for the Maintained Apparatus necessary to enable access to the Maintained Apparatus for the provision of the Services.

3. SYSTEM ACCESS DETAILS

- 3.1. The Customer acknowledges that provision of the Fixed Term Maintenance Services is conditional on F One Technologies being provided with accurate and correct System Access Details.

- (a) Where the Order indicates that System Access Details have been provided by the Customer or requested from the Customer by F One Technologies, the Customer is responsible for ensuring that System Access Details are accurate and correct.
- (b) Where the System Access Details are indicated on the Order as requested, the Customer will supply the same to F One Technologies within ten (10) Working Days of the date of the Order.
- (c) Where the Customer fails to provide System Access Details in accordance with this schedule clause 3.1(b), the Customer agrees to F One Technologies resetting the Maintained Apparatus to enable access to the same using renewed System Access Details.
- (d) Where the Order indicates that the Maintained Apparatus is to be reset, F One Technologies will reset the Maintained Apparatus.

4. F ONE TECHNOLOGIES' OBLIGATIONS

- 4.1. F One Technologies shall, subject to the terms of this Agreement:

- (a) use reasonable efforts to Maintain the Maintained Apparatus at the Premises (or such other address as may be agreed in writing by F One Technologies) in efficient working order and during the continuance of this Agreement to execute by its servants, agents or contractors without charge all repairs and replacements to the Maintained Apparatus and/or Components necessitated solely by faults arising as a result of Fair Wear and Tear provided the Customer shall have duly notified F One Technologies of such fault or necessary repair in accordance with clause 12.2 in the Standard Terms.
- (b) use reasonable efforts to provide a maintenance response in accordance with the service level, provided, however, that F One Technologies (without prejudice to the terms and conditions of this Agreement or the Customer's liability for payment of the Charges) shall not be obliged to service the Maintained Apparatus if any Charges are overdue.
- (c) at the expense of and with the agreement of the Customer, provide the Fixed Term Maintenance Services where failure of the Maintained Apparatus is found to be due to other than Fair Wear and Tear.
- (d) at the request and expense of the Customer:
 - (i) carry out any alterations to the Maintained Apparatus or extension wiring in accordance with F One Technologies' current code of practice and good industry standards.
 - (ii) upon receipt of fourteen (14) days' notice, consent to the Customer's appointed contractor carrying out alterations to the Maintained Apparatus or extension wiring subject to the following:
 - (I) the Customer shall allow F One Technologies the right of inspection of that work and should F One Technologies reasonably determine that the work is unsatisfactory, remedy the defective work within thirty (30) days of inspection or pay F One Technologies' Charges and Price for effecting the remedy. Any breach of this condition may result in the Services being suspended or terminated by F One Technologies, at F One Technologies' sole discretion. F One Technologies reserves the right to charge for all such inspections; and
 - (II) pay F One Technologies' Charges and Price for reprogramming, visits and/or Services or provision of equipment as a result of a programming error effected by the Customer or any other party not appointed by F One Technologies; and
- (e) at the request and expense of the Customer, move the Maintained Apparatus to alternative premises where in the opinion of F One Technologies suitable service and reception facilities exist provided the Maintained Apparatus does not thereby pass out of the possession or control of the Customer.

5. CHARGES AND VARIATION OF CHARGES

- 5.1. Where the Maintained Apparatus is supplied by F One Technologies (including via a finance company), the Fixed Term Maintenance Services will be provided for the first year after installation at no charge to the Customer. The Customer will pay the Charges for the Fixed Term Maintenance Services thereafter.

5.2. F One Technologies may vary the Charges for the Fixed Term Maintenance Services annually by no more than RPI (All Items) for the then preceding twelve month period, provided that no such variation shall take effect earlier than one year after the Commencement Date.

6. SERVICE AND SERVICE LEVEL

6.1. The Fixed Term Maintenance Services comprise parts and labour cover for the repair or replacement of faulty Components originally supplied by or on behalf of F One Technologies between the hours of 0900hrs and 1730hrs Monday to Friday inclusive, but excluding Bank and Public Holidays in England.

6.2. On receipt of the Customer's fault report, faults in the hardware of Maintained Apparatus will be categorised by F One Technologies as Priority 1, Priority 2 or Priority 3. Note that remedy of Software faults may be dependent on access to source code and as such, any faults in Software will be referred to the manufacturer for remedy.

6.3. Where a fix is implemented by replacement of a Component, the replacement Component shall become the property of the Customer and the replaced Component shall become the property of F One Technologies.

6.4. Replacement parts supplied by or on behalf of F One Technologies shall be new or substantially as new.

6.5. Where replacement Components (e.g. handsets) are supplied by F One Technologies under this schedule clause 6 by post or courier, the Customer will return the faulty Components within seven (7) days of receipt of the replacement Components. The Customer acknowledges and agrees that it will pay F One Technologies' charges for replacement Components if the same are not returned in accordance with this schedule clause 6.5.

6.6. The Customer shall return faulty Components under this schedule clause 6.5 above in the original box and packaging and the Customer shall ensure that the Components are stored in accordance with the manufacturer's recommendations. F One Technologies will refund the reasonable cost of return by post upon a written request from the Customer.

7. EXCLUSIONS

7.1. Subject to its compliance with the terms of this Agreement, F One Technologies shall not be liable for any delay in the execution of any work of installation, repair, replacement, alteration or removal of or to the Maintained Apparatus howsoever caused.

7.2. F One Technologies shall not be liable for making good defects in the electricity supply or Network suppliers' services and connections and/or host PBX systems. Service calls for these purposes will be charged to the Customer and payable at F One Technologies' standard rates.

7.3. The Fixed Term Maintenance Services do not cover services in respect of:

- (a) maintenance or repair of any equipment not listed in the Accepted Order;
- (b) any failure of line wiring connected to the Maintained Apparatus;
- (c) any defect or failure in the public telecommunications network or Network;
- (d) moves, alterations, amendments and changes required by the Customer;
- (e) alterations to meet a change in the requirements or practices of the Network Operator or other relevant authority;
- (f) replacement of consumable materials, including, but not limited to, batteries;
- (g) errors in information supplied to F One Technologies and upon which F One Technologies has placed reliance;
- (h) work covered by the Services taking longer or attracting additional costs as a result of any of the causes listed in this schedule clause 7.

7.4. F One Technologies shall in no circumstances be liable for any failure or defective working of the Maintained Apparatus due to any fault, failure or change in the electricity supply service and/or BT's equipment and/or host PBX systems.

7.5. F One Technologies shall not be liable under this schedule clause 4 for costs of making good defects in any overhead and/or underground cables connected via internal building wiring to the Maintained Apparatus and service calls for these purposes will be charged to the Customer at F One Technologies' standard rate.

Schedule 2 Ethernet Connection Service

1. CONTRACT

- 1.1. The Order, Standard Terms and this schedule shall form a contract between the Parties ("Agreement") for the provision of Ethernet connection to the Customer by F One Technologies ("Ethernet Connection Service") and is a separate contract to that to provide any equipment.

2. APPLYING FOR INITIAL PRICING

- 2.1. The Customer must provide complete and valid information required by F One Technologies to accurately provide a Quote for Ethernet Connection Services.
- 2.2. Quotes for Ethernet Connection Services are provided without Excess Construction Charges (as defined in clause 3.1 below), the requirement for which may become apparent during the order process.
- 2.3. All Quotes, although accurate at the time, are indicative only and subject to site survey. Definitive pricing can only be confirmed at point of order with the underlying access provider.

3. EXCESS CONSTRUCTION CHARGES

- 3.1. F One Technologies may levy an additional charge where the provision of the Ethernet Connection Service, or part thereof, requires the provision of resources that exceed the level normally required to supply such service, for example, where additional installation costs are imposed by F One Technologies' supplier following a site survey ("Excess Construction Charges").
- 3.2. F One Technologies shall notify the Customer of any such Excess Construction Charges and the Customer shall have ten (10) days to accept the changes ("Acceptance Period"), in which case this Agreement shall be amended accordingly.
- 3.3. If the Customer rejects the Excess Construction Charges or does not accept the Excess Construction Charges within the Acceptance Period, this Agreement shall terminate with no payment due from the Customer to F One Technologies and no obligation on F One Technologies to provide Services to the Customer. Although Excess Construction Charges are typically identified following site survey, it is possible in certain circumstances that they may arise later on during the provisioning process if, following an attempt to deliver the Ethernet Connection Service, additional infrastructure, work is required to provide the Ethernet Connection Service.
- 3.4. Initial prices provided for the rental of IP addresses or for the installation of equipment by F One Technologies are subject to subsequent change in the event that the prices charged to F One Technologies by its supplier or sub-contractor are increased subsequent to the placing of the Order and before the Ethernet Connection Service is activated. Any such price variation shall be restricted to the price variation actually suffered or enjoyed by F One Technologies.

4. SERVICE PROVISION

- 4.1. F One Technologies reserves the right to terminate this Agreement for the following reasons:
- (a) the distance between a site and the point of presence of F One Technologies or its underlying service provider being deemed too great;
 - (b) if a site survey finds that a site is not suitable for the provision of the Ethernet Connection Service; or
 - (c) if the Customer does not agree to pay the Excess Construction Charges or any other Charges reasonably levied by F One Technologies,
- whereupon, this Agreement shall terminate with no payment due from the Customer to F One Technologies and no obligation on F One Technologies to provide Services to the Customer.
- 4.2. On a date during the order fulfilment process which will be advised by F One Technologies to the Customer, F One Technologies or its nominated sub-contractor will visit the Customer site to install the network terminating equipment ("NTE"). In the event that installation is extended beyond such time through no fault of F One Technologies (including, but not limited to, unreadiness on the part of the Customer or its Customer, difficulty in accessing the site, non-availability of the named contact, necessity of decommissioning redundant hardware or lack of availability of the required power circuits) F One Technologies shall be entitled to charge the Customer with additional charges that F One Technologies has incurred from its suppliers
- 4.3. Usually within ten (10) working days of completion of the installation of the NTE the Service will be connected to the Network and, following the successful conclusion of a series of commissioning tests performed by F One Technologies or its nominated sub-contractor, the Service will be deemed to be ready for use and F One Technologies shall be entitled to invoice the Customer for such Service from this date ("the Installation Date").
- 4.4. The Commencement Date is subject to the installation by the Customer of the required router (whether supplied by F One Technologies or not) and the completion of successful testing of the final installation with F One Technologies and may be subsequent to the date when the Service is deemed ready for use as set out above. Where the Ethernet Connection Service is being used to provide connectivity to an IP telephony service the Customer shall be responsible for the delivery of such telephony service over the Ethernet Connection Service.
- 4.5. If the Customer cancels a planned installation after 12:00 p.m. midday on the business day immediately prior to the installation date F One Technologies shall be entitled to charge the Customer the full amount which it would otherwise have charged for the aborted installation or, in the case of planned out of hours installations, 1.5 times its standard installation charge for planned installations after 17:30 on business days and Saturdays and 2 times its standard installation charge for planned installations on Sundays.

5. CHANGES

- 5.1. The Customer may request a change to the bandwidth of an installed Ethernet Connection Service as follows:
- (a) Once a month in respect of an upgrade in the overall bandwidth;
 - (b) Once in any 12 month period in respect of a downgrade in the overall bandwidth; or
 - (c) Once a month in respect of a change to the capacity allocated to either the IP telephony service or the internet service where a converged Ethernet Connection Service is being provided.
- 5.2. Where more than one downgrade occurs in any one 12 month period, the monthly rental shall not be reduced for the second and any subsequent downgrades.
- 5.3. If the Customer wishes to cancel the provision of the Services due to delay, the Customer shall only be able to do so if F One Technologies is permitted to terminate its contract with its suppliers for the same reasons and without incurring additional charges.

6. SURVEYS AND INSTALLATION

- 6.1. Provision of the Ethernet Connection Service will be subject to the completion of a satisfactory site survey by F One Technologies or its sub-contractor. The Customer acknowledges that it will be necessary for F One Technologies or its sub-contractor to visit a Customer site or sites to conduct such survey and for the purposes of installation.

- 6.2. Where an appointment is made for F One Technologies or its sub-contractor to visit Customer premises, including for the purposes of a site survey or for installation, and the visit cannot be successfully completed due to:
- (a) The inability of F One Technologies or its sub-contractor, through no fault of their own, to complete the work;
 - (b) The inability of F One Technologies or its sub-contractor to gain access to the site or sites or any part thereof which is necessary for the work;
 - (c) The appointment is broken by the Customer or the Customer; or
 - (d) Any other reason where F One Technologies or its sub-contractor is not at fault,

F One Technologies will charge the Customer with its standard aborted visit charge.

- 6.3. Unless otherwise agreed in writing between the parties the Customer must request that F One Technologies cancels the appointment within forty-eight (48) hours of notification by F One Technologies of F One Technologies' preferred installation date. In the event that the Customer does not agree such an appointment, the appointment will be deemed to have been fixed for F One Technologies' preferred installation date unless a revised Customer required date is subsequently agreed.
- 6.4. Site visits are subject to the site being within the United Kingdom (including Northern Ireland with the exception of Kingston upon Hull, Isle of Man, Isles of Scilly and the Channel Islands F One Technologies shall be entitled to levy reasonable additional charges for site visits and installations where this is not the case.

7. SERVICES ASSURANCE AND PROBLEM MANAGEMENT

- 7.1. The Customer's nominated contacts will be the only point of contact with F One Technologies for the notification of faults with the Ethernet Connection Service and their resolution. The Customer acknowledges that F One Technologies will not accept fault reports directly from a Customer and agrees that it will advise its employees and representatives to report all faults to the F One Technologies.
- 7.2. F One Technologies and/or the supplier of such equipment will provide the maintenance of any equipment installed on a site as part of the Service on the F One Technologies side of the service demarcation point.
- 7.3. The Customer will be responsible for initial fault diagnosis and will report a fault to F One Technologies only where it reasonably believes the fault is not caused by any Customer-installed equipment or any malfunction on the Customer-facing side of the service demarcation point. F One Technologies shall be entitled to charge the Customer with its standard abortive visit charge if a visit results in the fault being traced to any Customer-installed equipment or any such malfunction (or if F One Technologies or its sub-contractor fails to gain entry to the Customer site). F One Technologies shall also be entitled to invoice the Customer for configuring, testing and despatching replacement routers in the event that no fault is subsequently found in the original router or its configuration (where provided by F One Technologies) or where a fault has been incorrectly diagnosed by the Customer.

8. SERVICE CONSTRAINTS

- 8.1. The Customer acknowledges and accepts that there may be certain technical limitations to the Ethernet Connection Service as set out in clauses 8.2 to 8.4 below.
- 8.2. There may be technical or geographical limitations which do not enable the Ethernet Connection Service to be installed. Provision of the Service is conditional on a site survey when such limitations will normally become apparent. In the event that a site survey reveals that the required Ethernet Connection Service cannot be installed F One Technologies will cancel the order without charge to the Customer.
- 8.3. If during the commissioning of the Ethernet Connection Service it is found that, despite the reasonable endeavours of F One Technologies and/or its sub-contractor, the bandwidth performance as set out in the Order cannot be achieved, F One Technologies will cancel the order without charge or liability to the Customer.
- 8.4. Certain technical limitations may not become apparent until after the Ethernet Connection Service has been installed and has been working for some time. In such cases where no alternative solution can be found, F One Technologies shall be entitled to withdraw the Ethernet Connection Service and will issue a credit or credits to the Customer for any Charges which have already been invoiced to the Customer in relation to the Ethernet Connection Service (save for any charges for abortive visits). For the avoidance of doubt it should be noted that the available IP throughput of a circuit will be lower than the standard port speeds advertised owing to management and encapsulation overheads. Successful conclusion of the commissioning tests performed by F One Technologies or its nominated subcontractor shall be prima facie evidence that such management and encapsulation overheads are within normal parameters for the type of circuit concerned and no cancellation will be permitted under the provisions of paragraph 8.3 or 8.4 unless expressly agreed by F One Technologies.
- 8.5. In the circumstances referred to in clauses 8.2 to 8.4 above, and notwithstanding anything to the contrary in this Agreement, F One Technologies shall have no liability to the Customer for any failure to provide the Ethernet Connection Service, the performance of the Ethernet Connection Service, its effect on any other services or equipment or the withdrawal of the Ethernet Connection Service, save as set out above.

9. EQUIPMENT

- 9.1. Equipment provided by F One Technologies or by its sub-contractors for the delivery of the Ethernet Connection Service ("the Apparatus") remains the property of F One Technologies or its sub-contractors, as the case may be, and neither the Customer nor the Customer shall acquire any property in it. F One Technologies will ensure its sub-contractor provides the network terminating equipment.
- 9.2. The Customer shall provide a suitable place, conditions, connection points and electricity supply for the Equipment according to F One Technologies' reasonable instructions, or those of F One Technologies' sub-contractors, and carry out any site preparation work reasonably required by F One Technologies or its sub-contractors.
- 9.3. The Customer is responsible for the Equipment and shall be liable to F One Technologies for any loss or damage to it save where such loss or damage is caused by Fair Wear and Tear, is caused by F One Technologies, its sub-contractor or anyone authorised to act on their behalf. The Customer shall take all reasonable steps to prevent any damage to the Equipment and to prevent anyone (except anyone acting on F One Technologies' or F One Technologies' sub contractor's behalf) from adding to it, modifying it or interfering with it in any way.