Dunedin IT

Telecom Services

Terms and Conditions

1   Contract structure and contracting entity

1.1   The **Contract** shall comprise of:

1.1.1 the Order;

1.1.2 the Schedules (if any);   1.1.3

these Conditions;

If there is any conflict between the documents listed above, the document higher in the list shall take precedence.

1.2   By entering into the Contract, the Customer confirms that it is contracting as a business and not as a consumer.

2   Interpretation

2.1   Definitions

In these terms and conditions, the following definitions apply: **Applicable Law** the laws of Scotland and any other laws and regulations

that apply to providing or receiving the Service**; Authorised Contacts** individuals authorised to act on behalf of the Customer in relation to the Service;

Broadband Service a broadband Service provided by Dunedin IT to the Customer to access the internet using the Network;

Business Day a day other than a Saturday, Sunday or public holiday (in Scotland);

Cancellation Charges a sum equal to all costs incurred by Dunedin IT in order to get ready to provide the Service, including cancellation charges from Dunedin IT's subcontractors or suppliers or other costs payable to a third party;

Charges the fees and charges payable to Dunedin IT in relation to the Service as set out in the Order, Schedule and/or Price Guide;

Claim any legal claims, actions or proceedings against a party to this Contract, whether threatened or actual, whether by a third party or the other party to this Contract;

Conditions the terms and conditions set out herein; **Contract** agreement between Dunedin IT and the Customer as set out in clause 1.1; **Customer** the party Dunedin IT contracts with to provide the Service;

Data Protection Legislation the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018

(a) costs (including legal costs), claims, demands, actions, settlements, interest, charges, procedures, expenses, losses and damages

(including relating to material or non-material damage); and (b) to the extent permitted by applicable law:

(i)   administrative fines, penalties, sanctions, liabilities or other remedies imposed by a Supervisory Authority;

(ii)   compensation which is ordered by a Supervisory Authority to be paid to a Data Subject; and

(iii) the reasonable costs of compliance with investigations by a Supervisory Authority**;**

Data Subject has the meaning as defined in the Data Protection Legislation;

Effective Date except where Dunedin IT specifies otherwise, the date the Customer accepts Dunedin IT's offer to enter into the Contract, as may be further described in an order confirmation email;

Estimated Go-Live Date the date Dunedin IT estimates that delivery of the Service is due to start;

Force Majeure Event an event or circumstance beyond a party's reasonable control; **Go-Live Date** the date Dunedin IT first makes the Service available to the Customer;

Goods the equipment detailed in an Order and/or Schedule which is intended for use with the Service and/or Third Party Software;

Incident a support or maintenance requirement or event relating to the IT System logged with Dunedin IT by the Customer pursuant to the terms of the Contract;

Intellectual Property Rights patents, rights to inventions, copyright and related rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;

IT Managed Service a Service provided by Dunedin IT for the support and/or maintenance of the Customer's IT System at one or more Sites, the scope of which may be detailed in an Order or Schedule;

IT System the Customer's computers, network, software, server instances and such other items, which Dunedin IT agrees to support and/or maintain, as may be further detailed in an Order or Schedule;

Minimum Term the period of months or years beginning on the Go-Live Date, as set out in the Order, Schedule and/or Price Guide;

Network the telecommunication network used to provide the Service, which consists of network elements provided by Third Party Operators;

Notice any notice given by one party to the other under the Contract in accordance with clause 21.7;

Dunedin IT Dunedin IT Limited (Company No. SC364906) whose registered office is 22 Young Street North Lane, Edinburgh, Midlothian ,Scotland, EH2 4JD

Order any order or part of an Order from the Customer for the Service that is accepted by Dunedin IT;

Personal Data has the meaning as defined in the Data Protection legislation;

Price Guide the price guide relating to the Service, which may be available at https://Dunedin IT.co.uk/pricing (or any other online address that Dunedin IT advises the Customer of);

Privacy Policy Dunedin IT's privacy policy (as amended from time to time) at https://Dunedin IT.co.uk/privacy-policy/ (or any other online address that Dunedin IT advises the Customer of);

Schedule any document supplied by Dunedin IT that sets out the specific terms that apply to a Service and which is clearly marked as forming part of the Contract, excluding any proposal or other marketing material;

Service the service provided by Dunedin IT under the Contract, which may include part of a Service, provision of a Service to a Site, and/or Goods;

Site a place at or to which the Service is to be supplied, as identified in an Order;

Software any software and related documentation that Dunedin IT provides to the Customer as part of the Service, including any embedded software but excluding software licensed under an open source licence;

Standard Support Hours has the meaning given in clause 9.3.1; **Sub-Processor** has the meaning given in clause 19.4;

Supervisory Authority means any local, national or multinational agency, department, official, parliament, public or statutory person or any government or professional body, regulatory or supervisory authority, board or other body responsible for administering Data Protection Legislation;

Telephone Service a Service provided by Dunedin IT to enable the Customer to make and receive calls over the Network;

Termination Charges the aggregate of:
(a) the charges for any Service (or part thereof) supplied but for which no invoice has

yet been submitted;
(b) the fixed monthly charges due to the end of the Minimum Term; and

(c) if the Customer has paid a reduced charge, or no charge, for certain Goods or installation/connection services and the relevant Service ends before the end of the Minimum Period, the full price for the Goods and installation/connection services, excluding any discounts;

Third Party Operator the operator of any Network or provider of any electronic communications services over or through which Dunedin IT may provide a Service;

Third Party Software third party software licensed under and subject to the terms of any end user license agreement (including shrinkwrap or click-through software licenses) or open source license provided with it, as detailed in an Order or Schedule, which may include software which is (i) embedded in any item of equipment supplied by Dunedin IT, or (ii) provided by Dunedin IT and downloaded to any item of Customer equipment; and

User any person the Customer allows to use the Service.

2.2   Construction

In this Contract, the following rules apply:

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

2.2.2   a reference to a party includes its personal representatives, successors or permitted assigns;

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

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

2.2.5   a reference to **writing** or **written** includes reference to any communication effected by electronic transmission or similar means; and

2.2.6era party or the parties refer to the parties to the Contract. 3 Dunedin IT obligations

3.   Dunedin IT obligations

3.1   Dunedin IT will:

3.1.1   provide the Estimated Go-Live Date and use reasonable endeavours to meet such date. Activation on a specific date is not guaranteed and Dunedin IT will have no liability in respect of any failure to commence the supply of a Service by any given date. Where Dunedin IT has agreed to other dates, levels or standards in respect of the performance of a Service, such criteria must be detailed in writing in an Order. Dunedin IT shall use reasonable endeavours to meet such performance criteria, but failure to do so shall not constitute a breach of Contract;

3.1.2   provide the Service in all material respects in accordance with the Schedule (if any) and with the care and skill that would reasonably be expected in the circumstances. Dunedin IT shall take steps to ensure the Service is reasonably fault free and reasonably uninterrupted, but it is not a condition of the Contract, nor does Dunedin IT warrant or guarantee, that the Service will be uninterrupted, secure or error-free;

3.1.3   comply with Applicable Law;

3.1.4   provide information relating to the Customer's use of the Service, to authorities, regulators and law enforcement agencies, if it is legally required to; and

3.1.5   if applicable to the Service, take reasonable steps to stop anyone getting unauthorised access to any part of the Network.

3.2   Dunedin IT may change the Service (including the introduction or removal of features or replacement of the Service with an equivalent Service) at any time:

3.2.1   to comply with Applicable Law or other safety requirement; and/or

3.2.2   for any other reason provided the change does not materially adversely affect the nature or quality of the Service.

4 Customer obligations

The Customer will:

4.1   co-operate with Dunedin IT in all matters relating to the Service;

4.2   follow all reasonable instructions from Dunedin IT or any of Dunedin IT's subcontractors or suppliers from time to time in connection with the Service, including preparation activities that may be required to enable the Customer to receive the Service promptly or otherwise in accordance with the Contract;

4.3   provide Dunedin IT with such information and materials as Dunedin IT may reasonably require to supply the Service, and ensure that such information is complete and accurate;

4.4   provide the names and contact details of Authorised Contacts, but Dunedin IT may also accept instructions from a person who Dunedin IT reasonably believes is acting with Customer authority;

4.5   authorise Dunedin IT to act on its behalf in all dealings with third parties in connection with any matter that enables Dunedin IT to provide or continue to provide the Customer with the Service;

4.6   not resell the Service (unless expressly authorised elsewhere in the Contract);

4.7   comply with, and procure that all Users comply with, Applicable Law and all terms of the Contract;

4.8   ensure that any hardware and software used by the Customer (and not provided by Dunedin IT as part of the Service) is properly installed, fit for purpose, properly licensed and compatible with the Service;

4.9   keep all usernames, passwords and other security information secure (and change these and comply with such other directions as Dunedin IT considers necessary or desirable for security purposes);

4.10   notify Dunedin IT as soon as possible of any unauthorised access to its account or security details;

4.11   where applicable to the Service, and where the Customer is moving from another service provider, obtain and supply to Dunedin IT a migration authorisation code;

4.12   where applicable to the Service, get and maintain all consents, licences, permissions and authorisations required for Dunedin IT to provide the Service to a Site, including for:

    4.12.1   making alterations to buildings;

    4.12.2   getting into property;

    4.12.3   dealing with local authorities, landlords or owners;

    4.12.4   installing Goods; and

    4.12.5   using the Service over the Customer's network or at a Site;

4.13   not use the Service:

    4.13.1   for any purpose that may be offensive, abusive, a nuisance, illegal or fraudulent, or

    4.13.2   for the transmission of material that contains software viruses or any other disabling or damaging programs;

4.14   not do anything that causes the Network to be impaired or damaged or which may interfere with other users' use of the Network or of any part of the Service; and

4.15   not use the Service in a way which is inconsistent with good faith commercial practice to Dunedin IT's detriment.

5.   Suspension of Service

5.1   Dunedin IT may restrict or suspend any Service:

    5.1.1   for any maintenance, modification, or technical failure of the Network or Service;

    5.1.2   to implement a change under clause 3.2;

    5.1.3   to safeguard the security and integrity of the Network;

    5.1.4   for any breach of the Customer's obligations under this Contract, including clauses 4 and 6, or any failure to pay Dunedin IT pursuant to the terms of any other contract between the Customer and Dunedin IT; or

    5.1.5   if the Customer becomes subject to any of the events listed in clauses 14.6.3 to 14.6.12, or if the Customer fails to pay any amount due under the Contract on the due date for payment.

5.2   Dunedin IT shall keep all suspensions to a minimum and shall give the Customer prior notice of such suspensions where reasonably practicable.

5.3   If Dunedin IT restricts or suspends the Service pursuant to clauses 5.1.4 or 5.1.5:

5.3.1   the Customer will continue to be liable to pay the Charges for the Service until the Service ends; and   5.3.2 Dunedin IT may charge the Customer to start the Service again

6   Charges and payment

6.1   The Customer will pay and is responsible for the Charges, whether the Service is used by the Customer or someone else. This includes all Charges resulting from unauthorised or fraudulent use.

6.2   Dunedin IT will invoice, and the Customer will pay, in pounds sterling.

6.3   Dunedin IT will work out the Charges based on details that Dunedin IT records or that are recorded for Dunedin IT.

6.4   If Dunedin IT issues an invoice online, it will notify the Customer by email.

6.5   Unless the Customer is disputing an invoice under clause 6.13, the Customer will pay each invoice from Dunedin IT within the number of days set out in the Schedule or Order (of if no such number is so set out then within 14 days) from the date on it. The Customer will pay the full amount in cleared funds into Dunedin IT's bank account, without any set-off, counterclaim, deduction or withholding (except as required by law).

6.6   Dunedin IT may, without limiting its other rights and remedies, set-off any amount owing to it by the Customer against any amount payable by Dunedin IT to the Customer.

6.7   The Customer will pay all Charges by direct debit, unless Dunedin IT agrees otherwise.

6.8   Where the Customer does not pay by direct debit, unless Dunedin IT agrees otherwise, Dunedin IT will:

6.8.1   charge a payment processing fee, as set out in the Price List; and

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

6.9   Dunedin IT may credit assess the Customer from time to time to determine the credit limit on the Customer's account. The Customer will provide Dunedin IT with any information it reasonably requires for this. If Dunedin IT is not satisfied as to the creditworthiness of the Customer it may:

6.9.1   notify the Customer that no further credit will be allowed;

6.9.2   require all Charges owing by the Customer to Dunedin IT to be paid immediately in cash;

6.9.3   require the Customer to pay Charges in advance;

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

6.9.5   require the Customer to pay a deposit.

6.10   Unless stated otherwise in an Order, the Charges are exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature and all other taxes and charges in respect of the Service, which shall be payable by the Customer in addition.

6.11   If the Customer does not pay an invoice by the date it is due and is not disputing the invoice in accordance with clause 6.13, Dunedin IT may:

6.11.1   charge the Customer either:

(a)   a late payment charge, as described in the Schedule or the Price List; or

(b)   interest on the unpaid amount at the rate of 3% per annum above the then current Bank of England base rate accruing on a daily basis from the date payment was due until the date of actual payment, whether before or after judgment, and compounding quarterly;

6.11.2   restrict or suspend the Service as set out in clause 5;

6.11.3   cancel any outstanding Order; and

6.11.4   deduct monies up to the value of the overdue amount from any sum standing to the credit of the Customer's account with Dunedin IT (if any).

6.12   The Customer will pay any reasonable costs that Dunedin IT incurs when recovering any amount the Customer owes to Dunedin IT, including debt collection agency and legal costs.

6.13   In the event that the Customer disputes the amount of an invoice:

6.13.1   the Customer shall pay any undisputed portion of the invoice in accordance with clause 6.5;

6.13.2   the Customer shall write to Dunedin IT within 10 Business Days of the date of the invoice providing details of:

(a)   the nature and reason for the dispute;

(b)   the amount in dispute; and

(c)   any evidence to support the disputed amount

6.13.3   if Dunedin IT can demonstrate that the invoice is correct Dunedin IT shall be entitled to make a charge in accordance with clause 6.11.1; and

6.13.4   if Dunedin IT determines that the disputed invoice is incorrect Dunedin IT shall issue a corrected invoice and/or apply the relevant credit to the Customer's account.

7   Specific provisions – Broadband Service

7.1   Upon activation of a Broadband Service, the Customer accepts it may experience a temporary loss of its existing line.

7.2   Dunedin IT cannot guarantee that any Broadband Service connection will operate at data transfer speeds set out in an Order, Schedule, Price Guide or otherwise.

7.3   To prevent spam from entering and affecting the operation of the Network and Broadband Service, Dunedin IT or a Third Party Operator may:

7.3.1   take any reasonable measures or actions necessary to block access to or delivery of any e-mail which appears to be of an unsolicited nature or part of a bulk e-mail transmission; and

7.3.2   use within its systems virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments,

but Dunedin IT does not warrant that such technology will be effective against all virus attacks or unsolicited e-mails.

8   Specific provisions – Telephone Service

8.1   Subject to Applicable Law, the Customer shall have no title to or interest in any telephone number or IP address provided by Dunedin IT, and Dunedin IT may modify or withdraw any telephone number or IP address at any time.

8.2   The Customer must notify Dunedin IT at least five Business Days before any significant increase in traffic across the Network will arise as a result of the use of the Telephone Service. For the purposes of this clause, a significant increase will mean more than 5,000 calls in a 15 minute period to one phone number (or the aggregate of non-geographic numbers if they point to one number).

8.3   The Customer will not divert calls from travelling across the Network.

8.4   Dunedin IT cannot guarantee the correct function of any service not provided by Dunedin IT but which operates across a Telephone Service.

8.5   The Customer acknowledges that the Telephone Service is not immune to fraudulent or unauthorised intrusion or use (including interconnection to long distance networks, computer viruses and other malicious code) and, without prejudice to the provisions of clause 13, Dunedin IT will not be liable for any costs or losses arising from such intrusion or use.

9   Specific provisions – IT Managed Service

9.1   **Audit**

9.1.1   The Customer accepts responsibility, and will remain liable, for the status and condition of the IT System immediately before the Go-Live Date.

9.1.2   On, or at Dunedin IT's sole discretion prior to, the Go-Live Date, Dunedin IT will perform an audit of the IT System. Following completion of the audit, Dunedin IT will supply the Customer with an audit report containing recommendations for

improvements to the IT System (**Recommendations**) and Dunedin IT's proposed charges for carrying out such Recommendations.

9.1.3   If the Customer does not wish to adopt Recommendations or if there are omissions in the information provided by the Customer during the audit, Dunedin IT may make additional charges or impose reasonable limits on the support provided for the IT System.

9.1.4   The Customer will provide confirmation and evidence of all software licensing applicable to the IT System promptly upon Dunedin IT's request.

9.2   **Delivery**

9.2.1   Dunedin IT may install Third Party Software on the IT System to facilitate the remote connection and delivery of support to the Customer. In accordance with this right:

(a) if at any time the Customer refuses to allow Dunedin IT to install or use Third Party Software for this purpose, Dunedin IT may revise agreed charges or, without prejudice to its rights set out elsewhere in the Contract, terminate the Contract;

(b) Dunedin IT warrants that all Third Party Software installed on the IT System by Dunedin IT for this purpose will be licensed accordingly by Dunedin IT;

(c) the ownership of Third Party Software installed upon the IT System for this purpose will remain vested in Dunedin IT (or its licensors) and

(d) the Customer can request that Dunedin IT demonstrates and explains what Third Party Software it intends to install on the IT System and for what purpose it is intended.

9.2.2   Dunedin IT gives no guarantee that it will resolve any Incident within any particular timescale. Dunedin IT's failure to resolve an Incident in accordance with any service level or other target set out in an Order or Schedule shall not constitute a breach of Contract, nor give rise to any liability of Dunedin IT to the Customer, save to the extent that any service credits that have been agreed in an Order or Schedule may apply, in which case such service credits will be the only remedy available to the Customer.

9.2.3   The Customer accepts that whilst Dunedin IT may advise on software licensing matters, the Customer will be solely liable for acquiring and maintaining licenses for all software used on the IT System and paying all fees, fines or other costs associated with such software licenses, except for Third Party Software installed by Dunedin IT pursuant to clause 9.2.1.

9.2.4   The Customer will provide Dunedin IT and its subcontractors and suppliers with unrestricted access to the IT System and such further facilities and assistance may be required in order to supply the IT Managed Service. Dunedin IT will require administrator-level access to the IT System at all times.

9.3   **Availability**

9.3.1   Standard Support Hours

(a)   Unless expressly stated otherwise in an Order or Schedule, Dunedin IT's standard support hours for the provision of on-site support services are 9.00 am to 5.30 pm (less one hour for lunch) on Business Days.

(b)   Engineers will work on varying shift patterns within the hours stated above. This means that individual engineers do not necessarily work from 9.00 am to 5.30 pm on a daily basis.

9.3.2   Out of Hours   Subject to agreement in advance (including as to additional charges), Dunedin IT can provide remote and/or on-site support outside of Standard Support Hours.

9.3.3   The Customer is responsible for giving Dunedin IT authority to deal with its third party suppliers on behalf of the Customer. When such authority has not been provided, the support that can be provided by Dunedin IT may be limited.

9.3.4   When remote support cannot resolve an Incident and on-site support is required, the on-site visit will take place during Standard Support Hours within any agreed response times.

9.3.5   When a Customer has an Incident that is being worked on but remains unresolved at close of Standard Support Hours, support will resume when Standard Support Hours re-open.

9.3.6   Where unlimited Out of Hours support is not agreed as part of the IT Managed Service, the Customer can opt to pay for Out of Hours support at the hourly rates set out in an Order of Schedule. Periods of less than an hour will be subject to the charge for a full hour.

9.4   **Scheduled Maintenance**

9.4.1   Where agreed in an Order or Schedule, Dunedin IT will provide regular   scheduled maintenance visits of agreed duration and at agreed intervals.

9.4.2   During a maintenance visit, an engineer will attend the Site to provide maintenance services on the IT System, which may include checking successful operation of backup procedures, disk management and server updating/patching and other general servicing procedures.

9.5   **Additional services**

9.5.1   Any requests from the Customer for changes to the IT System or other services that Dunedin IT does not deem as being included within the agreed scope of the IT Managed Service will be chargeable in addition to the Charges. Dunedin IT will assess each such request and confirm the scope of additional services, the applicable charges for such additional services and any resulting increase to the Charges in a proposal. The Customer's acceptance of Dunedin IT's proposal will constitute an Order.

9.5.2   If the IT System grows in numbers of devices, users, workstations or server instances by 25% or more over any given period, Dunedin IT may increase the Charges by notifying the Customer (including by email).

9.6   **Exclusions**

9.6.1   Dunedin IT may exclude any Software not supplied by it from the scope of IT Managed

Service.   9.6.2   If Dunedin IT does agree to provide support in relation to such Software:

(a) support will only be provided to Users that have a reasonable level of competency and once the User has used help files and other resources available from the vendor/developer;

(b) Dunedin IT will not guarantee to resolve any Incidents relating to such Software, in accordance with any service levels or at all; and

(c) no training on such Software will be provided.

9.6.3   Dunedin IT cannot guarantee that any Third Party Software intended for such purpose, whether or not recommended by Dunedin IT, will keep the IT System (or any part of it) free of errors, viruses, worms, trojans, email spam, spy ware, hacking or any other unauthorised access.

9.6.4   When an issue exists with the IT System, Dunedin IT may recommend a solution requiring a capital cost outlay by the Customer. For the avoidance of doubt, such costs are not included in any Charges for the IT Managed Service.

9.6.5   If the Customer chooses not to adopt the solution recommended by Dunedin IT and the issue continues unresolved, Dunedin IT may:

(a)   refuse or limit support in respect of that issue or the relevant part of the IT System, in which case the Customer will remain liable for the full Charges; and/or

(b)   increase the Charges to reflect the additional effort and risk associated with supporting the IT System with that issue unresolved.

9.6.6   Dunedin IT cannot be held responsible for failure to provide the IT Managed Service due to:

(a) a lack of remote access to the IT System resulting from a problem with connectivity that is beyond Dunedin IT's control;

(b) the Customer's failure to provide Users with sufficient training;

(c) improper use, care of or accident to the IT System, or any failure of or change in electricity, air conditioning, humidity control or other   environmental or operating conditions not recommended or approved by Dunedin IT or the relevant manufacturer;

(d) any element of the IT System being installed, uninstalled, moved, repaired or tampered with by any person other than Dunedin IT, its subcontractors or suppliers.

10 Goods – ordering and delivery

10.1 The Customer is responsible for ensuring that the Goods are correct and appropriate for the Customer's intended use and requirements.

10.2 Dunedin IT reserves the right to amend the specification or model of any of the Goods if required by any applicable statutory or regulatory requirements, if the manufacturer changes such specification or discontinues such model, or if stock of such model becomes otherwise unavailable, between the date of the Order and the time of despatch. Dunedin IT will endeavour to ensure that any such substituted Goods will be of equal or better quality.

10.3 Any lead times or dates quoted for delivery of the Goods are approximate only, and time of delivery is not of the essence. The Goods may be delivered by Dunedin IT in advance of any dates quoted for delivery of the Goods.

10.4 Delivery of the Goods shall be completed on the arrival of the Goods at the relevant Site or other address agreed by Dunedin IT.

10.5 The Customer is under a duty to inspect the Goods on delivery.

10.6 Delays in the delivery of Goods shall not entitle the Customer to:

    10.6.1 refuse to take delivery of the Goods; or

    10.6.2 claim damages; or

    10.6.3 terminate all or part of the Contract, subject always to clause 21.1.

10.7 Dunedin IT shall have no liability for any failure to deliver, or delay in delivering, the Goods to the extent that any failure is caused by a Force Majeure Event, the Customer's failure to provide Dunedin IT with adequate delivery instructions for the Goods or the Customer's failure to comply with any reasonable instruction related to the delivery of the Goods.

10.8 If the Customer fails to take delivery of the Goods within 3 Business Days of Dunedin IT notifying the Customer that the Goods are ready and/or fails to provide any instructions, documents, licences, consents or authorisations required to enable the Goods to be delivered on the date quoted for delivery:

    10.8.1 delivery of the Goods shall be deemed to have been completed at 9.00am on the fourth Business Day following the day on which Dunedin IT notified the Customer that the Goods were ready; and

    10.8.2 Dunedin IT shall store the Goods until actual delivery takes place, and charge the Customer for all related costs and expenses (including insurance).

10.9 If 5 Business Days after Dunedin IT notified the Customer that the Goods were ready for delivery the Customer has not taken delivery of them, Dunedin IT may resell or otherwise dispose of part or all of the Goods.

11 Goods – warranties, replacements and returns

11.1 The Goods, where new, are provided with the benefit of and subject to the manufacturer's warranty and guarantee (**Manufacturer's Warranty**). Details of the Manufacturer's Warranty are set out on the relevant manufacturer's website or in the user guide or license relating to the Goods (including the duration of any warranty period).

11.2 Except as provided in this clause 11, Dunedin IT shall have no liability to the Customer in respect of the failure of Goods to comply with the applicable Manufacturer's Warranty.

11.3 Subject to clause 11.4 and any additional terms set out in a Schedule, Dunedin IT shall not be under any obligation to exchange, repair or replace Goods or provide any refunds.

11.4 Where Goods supplied to the Customer are or become faulty during the Manufacturer's Warranty period and for a reason covered by the Manufacturer's Warranty (which excludes the Customer's acts, omissions or misuse):

    11.4.1 The Customer should report the fault to the Dunedin IT Support Team on 0330 058 1701 or by email to helpdesk@dunedinit.co.uk

    11.4.2 The Customer must re-package the faulty Goods and ensure that such Goods and all original accessories are returned to Dunedin IT at the Customer's cost and risk by such post or courier service as shall ensure proof of delivery and sufficient insurance to cover the value of the Goods to Dunedin IT Limited, 22 Young Street North Lane, Edinburgh, EH2 4JD (or as otherwise directed by Dunedin IT).

    11.4.3 Dunedin IT shall inspect the returned Goods and may return them to the manufacturer.

11.4.4   Dunedin IT may, at its sole discretion and subject to inspection of the faulty Goods, elect to either:

(a) provide replacement Goods (subject to clause 11.5); or

(b) refund such sum as Dunedin IT reasonably considers to be the current market value of the faulty Goods.

11.5   The Customer acknowledges that, where it is determined (either by Dunedin IT acting reasonably, or by the manufacturer) that the fault is not covered by the Manufacturer's Warranty the Customer remains liable for any sums outstanding in respect of such Goods and:

11.5.1   where the faulty Goods can be repaired:

(a)   the Customer shall return to Dunedin IT any replacement Goods supplied pursuant to clause 11.4.4(a) (at the Customer's cost and risk) or pay Dunedin IT the full cost of such replacement Goods; and

(b)   at the Customer's option, Dunedin IT shall either (i) repair the faulty Goods and the Customer shall pay the costs of repair or (ii) return the faulty Goods to the Customer at the Customer's cost and risk;

11.5.2   where the faulty Goods cannot be repaired, the Customer shall pay Dunedin IT the full cost of any replacement Goods supplied pursuant to clause 11.4.4(a).

11.6   The Customer acknowledges and accepts that it is solely responsible for ensuring the backup of any important or confidential data stored on the Goods prior to their return to Dunedin IT and the Customer agrees that Dunedin IT will not be liable if any such data is lost or corrupted during any process set out in clauses 11.4 and 11.5.

11.7   Notwithstanding the foregoing provisions of this clause 11, no liability will be accepted under any Goods warranty or guarantee where any Customer invoice is overdue.

12   Goods – risk and title

12.1   The risk in the Goods shall pass to the Customer on completion of delivery.

12.2   Notwithstanding delivery and the passing of risk in the Goods, or any other provision of the Contract, legal and beneficial title to the Goods shall not pass to the Customer until:

12.2.1   in respect of Goods for which Dunedin IT has invoiced the Customer, Dunedin IT has received payment in full (in cash or cleared funds) for those Goods; or

12.2.2 in respect of Goods which Dunedin IT has discounted (in full or in part), Dunedin IT has received payment in full (in cash or cleared funds) of all sums due from the Customer for the Minimum Term.

12.3   Until title to the Goods has passed to the Customer, the Customer shall:

12.3.1   keep accurate records of the location or keeper of the Goods;

12.3.2 maintain the Goods in satisfactory condition and in accordance with the relevant manufacturer's warranty, guarantee and user guide;

12.3.3   keep them insured against all risks for their full replacement value from the date of delivery;

12.3.4   notify Dunedin IT immediately if it becomes subject to any of the events listed in clauses 14.6.3 to 14.6.12; and

12.3.5   give Dunedin IT such information relating to the Goods as Dunedin IT may require from time to time.

12.4   If, before title to the Goods passes to the Customer, the Customer becomes subject to any of the events listed in clauses 14.6.3 to 14.6.12, or Dunedin IT reasonably believes that any such event is about to happen and notifies the Customer accordingly, then, without limiting any other right or remedy Dunedin IT may have, Dunedin IT may at any time:

12.4.1   require the Customer at the Customer's own cost and expense to deliver up the Goods in its possession; or

12.4.2 without further notice enter any premises of the Customer or of any third party where the Goods may be kept or stored in order to recover them.

12.5   The Customer shall at all times ensure that any and all parties that seek to assert any right or claim against the Customer are made fully aware that the Goods are subject to reservation of title by Dunedin IT and that the Goods are not the property of the Customer.

12.6   If, for whatever reason, any party seeks to assert any right or claim against the Customer or the Goods, the Customer shall at its own cost and expense defend any such right or claim such as to preserve the reservation of title of the Goods and/or at Dunedin IT's request join any proceedings brought by Dunedin IT in relation to the Goods.

13   Liability

13.1   Dunedin IT will not be liable if it fails to do something under the Contract (including not carrying out any of its obligations, carrying them out late or not meeting any service levels), whether or not there is a Force Majeure Event (in which case, clause 21.1 applies), to the extent that Dunedin IT's failure is due to:

13.1.1   the Customer's failure to carry out, or delay in carrying out, any of its obligations under the Contract, in which case the Customer will pay Dunedin IT for any costs and losses sustained or incurred as a result of such failure or delay;

13.1.2   anyone other than Dunedin IT or Dunedin IT's subcontractors or suppliers doing something, or not doing something, they need to do; or

13.1.3   any restriction or prevention by Applicable Law, a court order, an application for interlocutory relief or injunction.

13.2   Subject to clause 13.5:

13.2.1   neither party shall be liable under any circumstances to the other, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Contract for:

(a) any loss of profits, sales, business, or revenue;

(b) loss or corruption of data, information or software;

(c) loss of business opportunity;

(d) loss of anticipated savings;

(e) loss of or damage to goodwill; or

(f) any indirect or consequential loss; and

13.2.2   each party's total liability to the other arising in connection with the Contract, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, shall in no circumstances exceed the greater of:

(a)   the amount paid by the Customer to Dunedin IT under the Contract in the 12 months prior to the date the loss arose; and

(b)   £100,000

13.3   The Customer's obligations to make payments to Dunedin IT pursuant to the Contract are in addition to and will not be counted towards the limitations set out in clause 13.2.2.

13.4   The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 and the terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

13.5   Nothing in these Conditions excludes or limits the liability of a party for:

13.5.1   death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors;

13.5.2   fraud or fraudulent misrepresentation; or

13.5.3   any other matter for which it would be unenforceable or invalid to seek to limit or exclude liability.   13.6   This

clause 13 shall survive termination of the Contract.

14   Term and termination

14.1   The Contract shall commence on the Effective Date and shall continue until:

14.1.1   it is terminated in accordance with its terms; or

14.1.2   Dunedin IT is no longer providing any Services to the Customer and there are no outstanding Orders.

14.2   The Customer can cancel an Order by giving Dunedin IT Notice, provided such Notice is received (or deemed received) by Dunedin IT before the Go-Live Date.

14.3   If the Customer cancels an Order in accordance with clause 14.2:

14.3.1   if the cancellation has any impact on volume commitments or otherwise affects the agreed Charges, Dunedin IT may amend the Charges to reflect this; and

14.3.2   the Customer will pay Dunedin IT the Cancellation Charges in accordance with clause 6.5.

14.4   Either party can terminate the Contract at any time by giving:

14.4.1   at least 90 days' Notice in respect of any Service based on ethernet, DIA, EFM or EFTTC; and

14.4.2   at least 30 days' Notice for any other Service.

14.5   Without limiting its other rights or remedies, Dunedin IT may terminate the Contract in whole or part with immediate effect by giving Notice to the Customer where Dunedin IT has suspended the Service under clause 5.1.4 or clause 5.1.5.

14.6   Without limiting its other rights or remedies, a party may terminate the Contract in whole or in part with immediate effect by giving Notice to the other party if:

14.6.1   the other party fails to pay any undisputed amount due under the Contract on the due date for payment and remains in default no less than 30 days after being notified in writing to make such payment;

14.6.2   the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 30 days after being notified in writing to do so;

14.6.3   the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

14.6.4   the other party commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;

14.6.5   a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the other party (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the other party with one or more other companies or the solvent reconstruction of that other party;

14.6.6   the other party (being an individual) is the subject of a bankruptcy petition or order;

14.6.7   a creditor or encumbrancer of the other party attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

14.6.8   an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the other party (being a company);

14.6.9   the holder of a qualifying charge over the assets of the other party (being a company) has become entitled to appoint or has appointed an administrative receiver;

14.6.10   a floating charge holder over the assets of the other party has become entitled to appoint or has appointed an administrative receiver;

14.6.11   a person becomes entitled to appoint a receiver over the assets of the other party or a receiver is appointed over the assets of the other party

14.6.12   any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clauses 14.6.3 to 14.6.11 (inclusive);

14.6.13   the other party suspends, threatens to suspend, ceases or threatens to cease to carry on, all or substantially the whole of its business; or

14.6.14   the other party's financial position deteriorates to such an extent that in Dunedin IT's opinion the Customer's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy.

14.7   Where more than one Service is provided under the Contract and the Contract is not terminated in whole, the Contract shall only terminate in respect of the terminated Service, and shall continue in respect of any continuing Service.

15   Consequences of termination

15.1   If the Customer terminates the Contract, the Service or any Order using its rights set out in clause 14.4, the Customer will pay Dunedin IT:

15.1.1   the Termination Charges (unless the Customer terminates pursuant to clause 16.3, in which case no Termination Charges will be payable); and

15.1.2   all Charges for Services that are or would have been performed during the Notice period set out in clause 14.4.

15.2   If Dunedin IT terminates the Contract, the Service or any Order using its rights set out in clause 14.5 or clause 14.6, the Customer will pay Dunedin IT the Termination Charges.

15.3   If the Contract, any Service or any Order is cancelled, terminated or expires, for any reason:

15.3.1   the Customer will immediately pay Dunedin IT any money and interest that is due up to the date of termination;

15.3.2   where any Goods are to be returned to Dunedin IT, the Customer shall upon request promptly (and in any case within 14 days of Dunedin IT's written request) pay to Dunedin IT a handling fee in respect of each unit of Goods;

15.3.3   the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry; and

15.3.4   the following clauses shall continue in force: clause 2 (Interpretation), clause 13 (Liability), clause 15 (Consequences of termination), clause 18 (Intellectual property), clause 19 (Data protection), clause 21.3 (Confidentiality), clause 21.4 (Entire agreement), clause 21.5 (Waiver), and clause 21.10 (Governing law and jurisdiction).

16   Changes to the Contract

16.1   The provisions in this clause 16 are without prejudice to the respective rights of the parties as set out elsewhere in the Contract.

16.2   Dunedin IT may amend the Contract (including the Charges) at any time by either:

16.2.1   publishing the amendment online at https://Dunedin IT.co.uk/pricing and/or https://Dunedin IT.co.uk/terms-andconditions/ (or any other online address that Dunedin IT advises the Customer of); and/or

16.2.2   by giving Notice to the Customer,

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

16.3   In respect of a Broadband Service or Telephone Service only, if Dunedin IT makes any amendment to the Contract that causes the Customer material detriment, if the Customer chooses to terminate under clause 14.2 within:

16.3.1   60 days of the date of notification if Dunedin IT has only published the amendment online under clause 16.2.1; or

16.3.2   30 days of the date of the Notice if Dunedin IT has given the Customer Notice under clause 16.2.2,

the Customer will not have to pay any Termination Charges, save that Dunedin IT may charge the Customer the full price for Goods and installation/connection services which were provided at a reduced charge or no charge.

16.4   Dunedin IT may amend the Charges in April of each year, by introducing an increase to all or any Charges by an amount up to or equal to the UK Retail Price Index (**RPI**) "All Items" rate published by the Office for National Statistics (or by any other body to which the functions of that office may be transferred) in January of that year. If the RPI rate is a decrease, Charges will not be reduced and if that index is not published for the given month, Dunedin IT may use a substituted index or index figures published by that office for that month. For the

avoidance of doubt, an increase to the Charges under this clause 16.4 shall not be an amendment to the Contract that causes the Customer material detriment so the provisions of clause 16.3 shall not apply.

16.5   No other variation of the Contract shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

17   Complaints

If the Customer wishes to make a complaint about the Service, the Customer must follow the Dunedin IT Complaints Procedure at https://Dunedin IT.co.uk/customerserviceplan (or any other online address that Dunedin IT advises the Customer of).

18   Intellectual property

18.1   Intellectual Property Rights in or arising out of the Service will be owned by Dunedin IT save to the extent that any of them contain Intellectual Property Rights owned by third parties.

18.2   If Dunedin IT provides Software so the Customer can use the Service, Dunedin IT gives the Customer a non-transferable, non-exclusive licence to use the Software only for the purposes and in the manner set out in the Contract, and for the period during which Dunedin IT provides the relevant Service. The Customer will comply with any third party terms that apply to the use of the Software.

18.3   The Customer will not and will ensure that its Users do not, copy, decompile, modify or reverse engineer any Software, or allow any third party to do so, except with Dunedin IT's prior written consent.

18.4   If the customer's use of the Service infringes, or allegedly infringes, a third party's Intellectual Property Rights, Dunedin IT will indemnify the Customer for Claims, losses, costs or liabilities brought against it provided the Customer:

18.4.1   notifies Dunedin IT promptly about the Claim;

18.4.2   allows Dunedin IT to conduct all negotiations and proceedings and to settle the Claim;

18.4.3   provides Dunedin IT with its reasonable assistance regarding the Claim; and

18.4.4   does not attempt to settle the Claim or make any admission or public statement relating to it, or do anything that may harm Dunedin IT's defence of it.

18.5   The indemnity in clause 18.4 will not apply to any part of a Claim that results from or is connected with:

18.5.1   the Customer's use of the Service with equipment, software or another service not supplied by Dunedin IT;

18.5.2   any modification of the Service, other than by or on behalf of Dunedin IT;

18.5.3   any content, designs or specifications that have not been supplied by or on behalf of Dunedin IT; or

18.5.4   the Customer using the Service in a way not agreed in writing by Dunedin IT.

18.6   The Customer will indemnify Dunedin IT for Claims, losses, costs or liabilities brought against Dunedin IT that result from or are connected with:

18.6.1   the Customer's use of the Service with equipment, software or another service not supplied by Dunedin IT;

18.6.2   any modification of the Service, other than by or on behalf of Dunedin IT;

18.6.3   any content, designs or specifications that have not been supplied by or on behalf of Dunedin IT; or

18.6.4   the Customer using the Service in a way not permitted by this Contract.

18.7   If using the Service leads, or is likely (in Dunedin IT's reasonable opinion) to lead, to a claim against the Customer as described in clause 18.4, Dunedin IT may (at its own expense):

18.7.1   procure the right to continue the Customer's use of the Service; or

18.7.2   modify or replace the relevant parts of the Service so that using the Service no longer infringes third party Intellectual Property Rights, provided performance of the relevant parts of the Service is not materially affected.

18.8   The indemnity in clause 18.4 and the actions in clause 18.7 are the Customer's only remedies for Claims that use of the Service infringes a third party's Intellectual Property Rights.

19   Data protection

19.1   Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 19 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

19.2   The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and Dunedin IT is the data processor (where **data controller** and **data processor** have the meanings as defined in the Data Protection Legislation).

19.3   The Customer acknowledges and agrees with the Privacy Policy which sets out the scope, nature and purpose of processing by Dunedin IT, the types of Personal Data and categories of Data Subject being processed for the purposes of the Contract.

19.4   Without prejudice to the generality of clause 19.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to Dunedin IT for the duration and purposes of the Contract, and will transfer to Dunedin IT only the Personal Data that Dunedin IT requires in order to perform its obligations under the Contract.

19.5   Without prejudice to the generality of clause 19.1, Dunedin IT shall, in relation to any Personal Data processed by Dunedin IT in connection with the Contract:

19.5.1   process the Personal Data only in accordance with the Privacy Policy unless Applicable Law requires Dunedin IT to process Personal Data. Where Dunedin IT is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, Dunedin IT shall promptly notify the Customer of this before performing the processing required by the Applicable Law unless that Applicable Law prohibits Dunedin IT from so notifying the Customer;

19.5.2   ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

19.5.3   ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

19.5.4   not transfer any Personal Data outside of the European Economic Area other than as set out in the Privacy Policy unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(a)   the Customer or Dunedin IT has provided appropriate safeguards in relation to the transfer;

(b)   the Data Subject has enforceable rights and effective legal remedies;

(c)   Dunedin IT complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

(d)   Dunedin IT complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

19.5.5   assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

19.5.6   notify the Customer without undue delay on becoming aware of a Personal Data breach; and

19.5.7   at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of Contract unless required by Applicable Law to store the Personal Data.

19.6   The Customer consents to Dunedin IT appointing third-party processors or Personal Data (**Sub-Processors**) as set out in the Privacy Policy. Dunedin IT confirms that it has entered or (as the case may be) will enter with each Sub-Processor into a written agreement

incorporating terms which are substantially similar to those set out in this clause 19. As between the Customer and Dunedin IT, Dunedin IT shall remain fully liable for all acts or omissions of any Sub-Processor appointed by it pursuant to this clause 19.6.

19.7 Dunedin IT may, at any time on not less than 30 days' notice, revise this clause 19 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme.

19.8 Data Protection Liability and Indemnity

19.8.1 The Customer shall indemnify and keep indemnified Dunedin IT in respect of all Data Protection Losses suffered or incurred by, awarded against or agreed to be paid by, Dunedin IT and any Sub-Processor arising from or in connection with any:

(a) non-compliance by the Customer with the Data Protection Legislation;

(b) processing carried out by Dunedin IT or any Sub-Processor pursuant to the Privacy Policy or any changes requested to

the Privacy Policy by the Customer that infringes any Data Protection Legislation; or (c)

breach by the Customer of any of its obligations under clause 19,

except to the extent Dunedin IT is liable under clause 19.8.2.

19.8.2 Dunedin IT shall be liable for Data Protection Losses (howsoever arising, whether in contract, tort (including negligence) or otherwise) under or in connection with this Contract:

(a) only to the extent caused by the processing of Personal Data under the Contract and directly resulting from Dunedin IT's breach of clause 19; and

(b) in no circumstances to the extent that any Data Protection Losses (or the circumstances giving rise to them) are contributed to or caused by any breach of the Contract by the Customer.

19.8.3 If a party receives a compensation claim from a person relating to processing of Personal Data, it shall promptly provide the other party with notice and full details of such claim. The party with conduct of the action shall:

(a) make no admission of liability nor agree to any settlement or compromise of the relevant claim without the prior written consent of the other party (which shall not be unreasonably withheld or delayed); and

(b) consult fully with the other party in relation to any such action, but the terms of any settlement or compromise of the claim will be exclusively the decision of the party that is responsible under the Contract for paying the compensation.

19.8.4 The parties agree that the Customer shall not be entitled to claim back from Dunedin IT any part of any compensation paid by the Customer in respect of such damage to the extent that the Customer is liable to indemnify Dunedin IT in accordance with clause 19.8.1.

19.8.5 This clause 19.8 is intended to apply to the allocation of liability for Data Protection Losses as between the parties, including with respect to compensation to Data Subjects, notwithstanding any provisions under Data Protection Legislation to the contrary, except:

(a) to the extent not permitted by Applicable Law (including Data Protection Legislation); and

(b) that it does not affect the liability of either party to any Data Subject.

20. Anti-bribery

Each party will comply in all respects with the Bribery Act 2010 and other relevant Applicable Law, regulations and sanctions relating to anti-bribery and anti-corruption. Each party will maintain adequate procedures designed to prevent bribery and appropriate antibribery and corruption policies and procedures.

21. General

21.1 Force majeure

Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 2 months, the party not affected may terminate the Contract immediately by giving Notice to the affected party.

21.2   Assignment and other dealings

21.2.1   Dunedin IT may at any time assign, transfer, mortgage, charge subcontract or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party.

21.2.2   The Customer shall not, without the prior written consent of Dunedin IT, assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with all or any of its rights or obligations under the Contract.

21.3   Confidentiality

21.3.1   Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 21.3.2.

21.3.2   Each party may disclose the other party's confidential information:

(a)   to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 21.3; and

(b)   as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

21.3.3   The provisions of this clause 21.3 shall continue in force in accordance with their terms, notwithstanding the termination of the Contract for any reason.

21.4   Entire agreement

21.4.1   The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.4.2   The Customer acknowledges that it has not relied on, and shall have no remedies in respect of, any statement, promise, representation, assurance or warranty made or given (whether innocently or negligently) by or on behalf of Dunedin IT that is not set out in the Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

21.4.3   Any samples, drawings, descriptive matter or advertising issued by Dunedin IT and any illustrations or descriptions of the Service on Dunedin IT's website are issued or published for the sole purpose of giving an approximate idea of the Service described in them. They shall not form part of the Contract or have any contractual force.

21.4.4   These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

21.4.5   Dunedin IT's employees or agents are not authorised to make any representations concerning the Service unless confirmed by Dunedin IT in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.

21.4.6   Any typographical, clerical or other accidental errors or omissions in Order and/or any sales literature, quotation, price list, invoice or other document or information issued by Dunedin IT shall be subject to correction without any liability on the part of Dunedin IT.

21.5   Waiver

A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:

21.5.1   waive that or any other right or remedy; or

21.5.2   prevent or restrict the further exercise of that or any other right or remedy.

21.6   Severance

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

21.7   Notices

21.7.1   Save where specified otherwise, any notice or other communication required to be given to a party under or in connection with the Contract shall be in writing and shall be: (a) delivered to the other party personally; or   (b) sent by prepaid post, recorded delivery or by commercial courier, at its registered office (where sent by the Customer) or the billing address set out in the Order Form (where sent by Dunedin IT); or   (c) sent by email to networkservices@Dunedin IT.co.uk (where sent by the Customer) or to the billing email address set out in the Order Form (where sent by Dunedin IT),   or such other address or email address as a party may have specified to the other party in writing in accordance with this clause.

21.7.2   Any notice or other communication shall be deemed to have been duly received if delivered personally when left at such address or, if sent by prepaid post or recorded delivery at 9.00 am on the second Business Day after posting or, if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed. Notices sent by email will be deemed served one Business Day after transmission.

21.7.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.   **21.8 Third party**

rights

No one other than a party to the Contract shall have any right to enforce any of its terms.

21.9   Counterparts

The Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of the Contract but all the counterparts shall together constitute the same agreement.

21.10   Governing law and jurisdiction

The Contract, and any dispute or claim arising out of or in connection with it or its subject matter or formation (including noncontractual disputes or claims), shall be governed by, and construed in accordance with, Scottish law, and the parties submit to the exclusive jurisdiction of the courts of Scotland.