

This agreement is between Concorde Communications Limited (Company number: 03749444): Concorde Communications House, Wakefield Road, Ossett, WF5 9JS ("Concorde Communications Communications") and the Client detailed in Schedule A ("Client").

These General Terms and Conditions sets out the terms and conditions applicable to the Goods and Services which Concorde Communications provides to the Client. Services and Goods will be provided under these General Terms and Conditions together, where applicable, with one or more Service Modules, a Schedule A, one or more Schedules and Service Delivery Documents and identified as such, all of which will be regulated by these General Terms and Conditions.

**1. DEFINITIONS**

The definitions in this clause 1 apply except where an alternative definition is given in a Service Module in which case the definition in the Service Module shall take precedence for purposes of the Services specific to the said Service Module.

**"Acquired Rights Directive"** means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended or replaced from time to time.

**"Additional Charges"** means charges calculated by Concorde Communications on a time and material basis at its then prevailing rates for providing Additional Services or work outside Concorde Communications normal working hours.

**"Normal Working Hours"** Monday to Friday 9:00 to 17:30 excluding UK mainland recognised public and bank holidays

**"Additional Services"** means a Service not specified in the Service Modules and Schedules as being specifically included within the Services rendered in return for the payment of the Service Charge.

**"Agreement"** means such Service Modules, Schedule A, Schedules and Service Delivery Document pertaining to specific Services as may be applicable, read together with these General Terms and Conditions, and in relation to the sale of Goods only, these General Terms and Conditions.

**"Commencement Date of the Service"** means the start date stipulated in Schedule A for the provision of the Services.

**"Cover Code"** means the code stipulated in the Schedule(s) included in an Agreement identifying the Service subscribed to by the Client under this agreement.

**"Client Premises"** means the address(es) listed in the Schedule where the Equipment or Services are operated, and in the event of sale of Goods for which Concorde Communications has undertaken delivery, the address where the Client has requested Concorde Communications to deliver the Goods to.

**"Delivery Date"** means the agreed date for delivery of the Goods, where Concorde Communications has undertaken delivery of the Goods.

**"Equipment"** means Computing hardware listed in a Schedule

**"General Terms and Conditions"** means the terms and conditions set out in this document.

**"Goods"** means software, services and hardware purchased by the Client from Concorde Communications

**"Hours of Cover"** means the times, detailed in the Service Modules, Service Delivery Documents and Schedules, that Concorde Communications will provide Services under this Agreement.

**"Intellectual Property Rights"** means copyright, database rights, trade service marks, design rights and patents (including patent applications).

**"Minimum Term of Agreement"** means the Minimum Term of an Agreement stipulated as such in Schedule A.

**"Personnel"** means the individual employed by Concorde Communications or any of its parent or sister companies in compliance with its obligations under this agreement, who may or may not be an employee of Concorde Communications.

**"Prescribed Rate"** means rate of interest of eight (8) per cent per annum above the base rate from time to time of the Lloyds TSB Bank PLC or such other clearing bank as Concorde Communications may from time to time specify or (in the event of base rates being no longer published or used) such other comparable rate of interest as Concorde Communications may from time to time specify.

**"Purchase Price"** means the charges payable by the Client for the purchase of Goods and Services.

**"Schedule(s)"** means documents issued by Concorde Communications in terms of these General Terms and Conditions in conjunction with the Service Modules, Schedule A and Service Delivery Document as part of this agreement, detailing the services prescribed to, the Equipment, Client Premises and hours of cover applicable to the Client identified in the Schedule A.

**"Schedule A"** means a document issued by Concorde Communications in terms of these General Terms and Conditions on conjunction with the Service Module, Service Delivery Document and Schedules detailing the Minimum Term of Agreement, Service Charges, Commencement Date of Services and the Client details.

**"Service(s)"** means the Services that will be rendered by Concorde Communications under this agreement, selected and stipulated in a Schedule and described in the Service Modules and Service Delivery Documents.

**"Service Charge(s)"** means charges payable by the Client for the services to be performed as Stipulated in Schedule A.

**"Service Module(s)"** means service-specific terms issued as part of the agreement containing a detailed description of the Services that Concorde Communications will be rendering to the Client under this agreement and such additional terms and conditions that are applicable to the Services.

**"Service Delivery Document"** means a document providing additional information regarding Services that Concorde Communications may issue at its sole discretion in conjunction with Service Modules as part of the agreement.

**"TUPE"** means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI 1981/1794) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive.

**2. PRECEDENCE**

2.1 In the event and to the extent only of any conflict between these General Terms and Conditions, Service Modules, Schedule A, Schedules and Service Delivery Documents, the order of precedence shall be:

- 2.1.1 These General Terms and Conditions;
- 2.1.2 The Service Modules;
- 2.1.3 The Schedule A;
- 2.1.4 The Schedules; and
- 2.1.5 The Service Delivery Documents.

2.2 Any additional terms and conditions included within any ancillary document of the Client (including without limitation the Client's order or purchase terms and conditions or the Client's order number) shall not be incorporated within this agreement unless specifically agreed between the parties by specific reference to this clause 2.2.

2.3 This Agreement constitutes the entire and only legally binding agreement between the parties relating to the Engagement and replaces any previous agreements or arrangements. No other representations, promises, guarantees, agreements, compromises or securities (either express or implied) besides those expressly established in this agreement exist. No variation to these terms on behalf of Concorde Communications can be made otherwise than in writing signed by a director of the Concorde Communications.

### 3. TERM

3.1 The Agreement shall commence on the Commencement Date of the Services and continue (subject to the provisions of this agreement) for the Minimum Term of Agreement stipulated in Schedule "A" following which unless Schedule "A" stipulates that the contract is "fixed-term" the contract shall continue automatically for further 12 month periods unless terminated by either party serving three months written notice to expire on any subsequent anniversary of the Commencement Date of Services, such notice will be effective only if sent by means of registered post.

### 4. REPRESENTATIVES

4.1 Each party shall immediately communicate to the other an identity of a person(s) or the department within its undertakings who shall act as the sole contact point and channel of communication in relation to the provision of the Services.

### 5. PURCHASE ORDER

5.1 Concorde Communications has agreed to render requested Services to the Client under this agreement containing such Service Modules that may be applicable to the Services requested by the Client, a Schedule A, such Schedules as may be necessary to stipulate and select the Services, Equipment, and Client Premises as well as any applicable Service Delivery Documents that the parties may agree to, effective from the Commencement Date of Services stipulated in the applicable Schedule A and only once this agreement has been signed by both Concorde Communications and the Client.

5.2 The Client will provide Concorde Communications with a valid Client purchase order for the purchase of all Services and Goods, in the case of Services, prior to the signature of this agreement, and in the case of purchase of Goods, at the stage when the order for the Goods is placed with Concorde Communications.

5.3 All purchase orders are subject to acceptance and availability of Goods.

5.4 For the avoidance of doubt, Concorde Communications shall be entitled to refuse any purchase order for any reason whatsoever.

5.5 No purchase order for Goods shall become binding upon Concorde Communications until such time as Concorde Communications has provided the Client with an order number.

### 6. CHARGES, PURCHASE PRICE & PAYMENT

6.1 Services Charges will be invoiced annually in advance of the commencement of Service unless otherwise specified in the applicable Service Module(s) or Schedule A and will be

payable within 30 days from date of invoice free from any right of setoff.

6.2 Purchase Price for Goods:

6.2.1 Will be invoiced on receipt of the Goods, payable within 30 days from date of invoice free from any right of setoff

6.2.2 will change, and the changed price will apply to any purchase order for Goods if, prior to delivery of the Goods, Concorde Communications discovers an error in the price of the Goods ordered or the price changes as a result of circumstances beyond Concorde Communications control.

6.3 If Concorde Communications is delayed in or prevented from delivering or installing the Goods, where such delivery and installation has been agreed to by Concorde Communications, by the date agreed to, due to any delay or default on the part of the Client and/or its employees, agents or representative, Concorde Communications may, in addition to any other remedies it may have, make a reasonable charge in respect of any additional costs thereby incurred. These additional costs will be invoiced and paid as stipulated in clause 6.5 below.

6.4 Concorde Communications may increase the Service Charges to reflect the effects of inflation with effect from each anniversary of the Commencement Date by giving the Client 90 day's prior written notice. Such increased charges shall not exceed the percentage change(s) in the official United Kingdom Retail Price Index in the calendar year(s) immediately preceding that said anniversary

6.5 Additional Charges not invoiced simultaneously with the annual Service Charge will be invoiced as and when incurred. Payment of all invoices is to be made by cleared funds within 30 days from date of invoice unless alternative payment terms are agreed in writing between Concorde Communications and the Client.

6.6 In the event of a Client failing to pay any undisputed sums due to Concorde Communications shall be entitled to suspend forthwith on written notice all Services without adjustment to the Service Charges.

6.7 Concorde Communications shall have the right to charge interest for late payment of invoices at the Prescribed Rate from the due date until the date payment is received.

6.8 Concorde Communications in calculating the Service Charges has relied on the financial, commercial, technical and operational information provided by the Client. Should this information prove to be inaccurate either by error, omission or misrepresentation then Concorde Communications reserves the right to review the annual Service Charges as detailed in this agreement and increase as appropriate.

6.9 Save insofar as otherwise expressly provided all amounts are expressed exclusive of Value Added Tax which shall be payable by the Client at the rate applicable by law.

6.10 For the avoidance of doubt:

6.10.1 Any negotiations between the parties for an amendment to Services will not suspend the Client's obligation to pay outstanding invoices; and

6.10.2 No variation to Services can take place when undisputed Service Charge and Purchase Price invoices are outstanding and payable.

### 7. CLIENT'S OBLIGATIONS

7.1 The Client undertakes to Concorde Communications throughout the term of this agreement to:

7.1.1 Procure and provide such access to the Client Premises as Concorde Communications shall require to discharge its obligations.

7.1.2 be responsible for the health and safety of the Concorde Communications Personnel at the Client Premises and will ensure that written notice of all health and safety

policies and procedures pertaining to the applicable Client Premises is provided to all Personnel attending the Client Premises.

7.1.3 Procure and provide all precautions to protect the health & safety of the personnel while at the Client Premises, including where practical the presence of a Client representative in the area where the equipment is operating during the rendering of the Services.

7.1.4 Procure and provide a suitable and safe environment and such facilities at the Client Premises as Concorde Communications shall require to discharge its operations (including without limitation adequate workspace, storage, electrical supplies, environmental conditions, cabling, office furniture and equipment).

7.1.5 at the request of Concorde Communications make available for the assistance of Concorde Communications in undertaking the Services all necessary documentation, information, system data and necessary assistance relating to the Services or Required to perform the Services and provide staff familiar with the Client's programs and/or applications and/or requirements of the Services, which staff will fully cooperate with the personnel to enable the Services to be performed.

7.2 The Client will be responsible for ensuring that the Services and Goods are suitable for their required purposes and capable of performing the functions and use to which it is intended to put them.

7.3 The Client warrants that it has full capacity and all the necessary consents (including but not limited to, where it's procedures so require, the consent of its Parent Company) to enter into and to perform the agreement and that this agreement will be executed by a duly authorised representative of the Client.

7.4 The Client shall at its own expense and prior to the delivery of the Goods:

7.4.1 Obtain all necessary consent for the installation and use of the Goods, including consent for any necessary alterations to buildings;

7.4.2 Ensure that any floor loading limits will not be exceeded;

7.4.3 provide suitable accommodation, foundations and environment for the Goods, including all necessary structural alterations, to permit installation, trunking, conduits and cable trays in accordance with all applicable installation standards unless such services are specifically contracted for under this agreement;

7.4.4 Provide electric power required for the installation, operation, test and maintenance of the Goods;

7.4.5 take up and remove in time to allow Concorde Communications to carry out any agreed installation all, and any fitted or fixed floor coverings, ceiling tiles, suspended ceilings and partition covers and all other fittings that may prevent Concorde Communications from carrying out the agreed installation, and be responsible after completion of the agreed installation for any making good and decorators work required.

7.5 Where Concorde Communications has undertaken installation of the Goods:

7.5.1 The Client shall at its own expense make available to Concorde Communications such items of magnetic media and consumable materials that may reasonably be requested by Concorde Communications in order to undertake the test as contemplated in clause 8.5; and

7.5.2 Concorde Communications will commence with the installation of the Goods as soon as reasonably practicable after the actual delivery.

## 8. DELIVERY, INSTALLATION AND RETURN OF GOODS

8.1 Delivery charges are payable in addition to the Purchase Price and will be invoiced and payable in accordance with clause 6.5.

8.2 Where Concorde Communications has undertaken delivery of the Goods, the Goods may be delivered in advance of the Delivery Date upon the giving of reasonable notice to the Client. The Client shall make all reasonable arrangements to take delivery of the Goods whenever they are tendered for delivery.

8.3 The Delivery Date or any other agreed date when the Goods must be ready for Service is an estimate only. Concorde Communications does not guarantee that the Goods will be delivered or ready for Service on such date, nor will Concorde Communications be liable for failure to meet such date.

8.4 Where Concorde Communications has undertaken delivery, Concorde Communications shall deliver the Goods to the Client Premises, but Concorde Communications shall not be responsible for moving the Goods to its location at the Client Premises unless Concorde Communications has agreed to undertake installation of the Goods.

8.5 Where Concorde Communications has undertaken installation of the Goods, Concorde Communications will carry out any tests necessary to ensure that the Goods are in working order. If it appears that the Goods or any part thereof are not in working order, Concorde Communications shall at its sole discretion adjust, repair or replace the Goods in order to ensure that they are in working order within a reasonable time.

8.6 Return of goods can only take place:

8.6.1 Once Concorde Communications has agreed thereto in writing at its sole discretion; and

8.6.2 if the request for return has been made within 14 days from date of delivery and the Goods have in fact been returned to Concorde Communications within five days from the date of Concorde Communications written agreement referred to in 8.6.1; and

8.6.3 If the Goods are free from any damage of whatsoever nature and in a fully working and useable condition; and

8.6.4 If the Goods are properly packed and in a factory sealed saleable condition; and

8.6.5 If the Goods are still covered by the warranty.

8.7 Concorde Communications has the right to reject any return of Goods which does not comply with clauses 8.6.1 to 8.6.5 above.

8.8 Concorde Communications reserves the right to charge the Client a restocking fee and administration charge for all Goods returned, to be invoiced by Concorde Communications and paid by the Client as stipulated in clause 6.5.

8.9 If Concorde Communications accepts the return of Goods that are not in a sealed saleable condition Concorde Communications will charge the Client the costs of bringing the Goods into a saleable condition, to be invoiced by Concorde Communications and paid by the Client as stipulated in clause 6.5.

8.10 No software or licence to use the software once delivered, which has had its packaging seal broken or having been delivered physically or electronically can be returned for credit or refund.

If any software is found to be faulty, the manufacturer will replace at their discretion. Please note Software Licences are non-returnable or refundable unless the software is materially non-compliant with its specification or the physical or virtual media on which it is supplied upon is defective, in which case a replacement would be supplied.

It is the purchaser's responsibilities that the software quantities ordered meet the usage rights contained within the manufacturer's/author's licence agreement. Once delivered, the purchaser is bound by the manufacturer or author's software licence agreement terms and conditions which can be supplied upon request.

8.11 Special Order Items. Our normal return policy does not apply to any "Special Order" purchases. "Special Order" purchases are not returnable for refund or for credit of any kind. With the exception of our "Return Policy", our normal purchase terms apply to "Special Order" purchases. When you receive the "Special Order" items, you must immediately and carefully inspect the delivery for correctness, completeness and for any possible delivery damage. Any problems must be reported to us within 48 hours after receipt of your delivery. If problems are not reported to us within 48 hours after receipt of your delivery, we will not be responsible for correcting any problems.

If you receive your "Special Order" items from us and you are re-shipping the package or packages to a second location, you must open the package or packages and make a thorough inspection as noted above. If problems are found, we will only be responsible for shipping corrections to the original delivery location. We will not be responsible for correcting errors (or delivery costs) to an address other than the original delivery address. The 48-hour time limit for reporting errors applies only to the original delivery location. You are strongly advised to pre-purchase a small quantity of the item or items before making a large purchase so that you may check that the items for suitability.

#### 9. OWNERSHIP, RISK AND WARRANTY

9.1 Any Goods delivered to the Client's Premises shall from the time of delivery be at the Client's risk, whether or not installed, except as regards loss or damages caused by the negligence of Concorde Communications. Where Concorde Communications does not deliver the Goods, the risk passes to the Client when the Client or its agent and/or representative take possession of the Goods.

9.2 Notwithstanding that Goods have been handed over and stand at the Client's risk, ownership of the Goods shall not pass to the Client until payment of the Purchase Price in full. At all times before payment of the Purchase Price in full:

9.2.1 The Goods shall stand in the Client's books in the name of Concorde Communications;

9.2.2 The Client shall take appropriate steps to notify third parties of Concorde Communications interest in the Goods; and

9.2.3 and in the event of a threatened seizure of the Goods, or if appointment of a receiver or liquidator takes place, or any other event entitling Concorde Communications to terminate the agreement materialises, the Client shall immediately notify Concorde Communications, and Concorde Communications shall be entitled to enter the Client's Premises and repossess the Goods.

9.3 All Goods sold are subject to the manufacturer provided warranty and licensing agreements.

9.4 If Concorde Communications is notified of a fault in the Goods, during the period of warranty, if any, which is due to faulty design, manufacture or materials or of the negligence of Concorde Communications, Concorde Communications will at its sole discretion replace the Goods or repair the fault free of charge provided that:

9.4.1 The Goods have been properly kept, used and maintained in strict compliance with the applicable manufacturer and Concorde Communications instructions, and has not been modified except with Concorde Communications written consent;

9.4.2 The fault is not due to accidental or wilful damage (including lightning and electrical damage) interference with or maintenance of the Goods by persons other than Concorde Communications Personnel;

9.4.3 If the Goods have been manufactured, specified or configured according to the Client's design, the fault is not due to faulty design by the Client;

9.4.4 The fault is not due to fair wear and tear.

9.5 In the case of Goods that are capable of being installed by the Client, the Client will be required to return the faulty Goods to Concorde Communications unless Concorde Communications agrees otherwise.

9.6 Concorde Communications may make a reasonable charge, to be invoiced and paid as stipulated in clause 6.5, in respect of any visit to the Client Premises at the Client's request to repair Goods where either no fault is found to exist or if the fault is not covered by this guarantee.

#### 10 LIMITATION OF LIABILITY

10.1 Neither party excludes or limits liability to the other party for death or personal injury resulting from its own or that of its employees', agents' or sub-contractors' negligence.

10.2 Subject to Clauses 10.1, the liability of Concorde Communications for Defaults shall be subject to the financial limits set out in this clause 10.2 as follows:

10.2.1 The aggregate liability under this Agreement of Concorde Communications for all Defaults of Concorde Communications or its Personnel resulting in a direct loss of or damage to the tangible property of the Client shall in no event exceed two million pounds (£2,000,000.00) for anyone claim or series of connected events

10.2.2 In the case of any other loss or damage caused by a Default of Concorde Communications or of its Personnel, the aggregate liability under the Agreement of Concorde Communications shall not exceed the aggregate of the Service Charges or the Purchase Price, whichever is the lowest, paid by the Client during the 12 months immediately preceding the incident causing the loss or damages, for any one claim or series of connected events.

10.2.3 Subject to Clause 10.1, Concorde Communications shall not be liable to the Client whether in contract, tort or otherwise in respect of any event of loss or reinstatement of data, loss of profits, goodwill, revenue, business, production, anticipated savings, contracts and/or any indirect or consequential loss.

10.3 If a number of events of default give rise substantially to the same claim, loss or damages, then they shall be regarded as giving rise to only one claim under this agreement.

10.4 Except in the case of an event of default arising under Clause 10.1 Concorde Communications shall have no liability to the Client in respect of any claim, loss or damages unless the Client has served notice of the same upon Concorde Communications within three months of the date it became aware of the circumstances giving rise to the claim, loss or damages or the date when it ought reasonably to have become so aware.

10.5 Concorde Communications will not be liable or responsible for any viruses introduced to the equipment no matter how so introduced, other than through Concorde Communications negligence.

10.6 All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this agreement.

**11. TERMINATION**

11.1 The Agreement may be terminated:

11.1.1 Forthwith by Concorde Communications if the Client fails to pay any Charges due within 30 days of the due date for payment.

11.1.2 Forthwith on written notice by either party if the other commits any material breach of any term of this agreement (other than for non-payment of Service or Additional Charges) and which shall not have been remedied within 45 days of a written request by the other party to remedy the same.

11.1.3 Forthwith by either party if the other convenes a meeting of its creditors or if a proposal is made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composite scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986 or if a trustee, receiver, administrative receiver, administrator or similar officer is appointed in respect of all or any part of the business or assets of the other party or if a petition is presented or a meeting is convened for the purpose of considering the winding up of the other party.

11.2 Termination shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

11.3 In the event of a termination of this Agreement by Concorde Communications for any reason prior to the expiry of the Minimum Term of Agreement, Concorde Communications will be entitled, in addition, and without limiting any other remedies and claims for loss and damages it may have, to recover costs of implementing the Service. Such implementation costs are to be payable within 14 days upon termination.

11.4 Upon termination of services contracts for whatever reason, all service charges up to and including contracted notice periods will become payable within 14 days.

11.5 Upon termination for whatever reason, the Client will immediately deliver up any of Concorde Communications property which it has no contractual right to retain (including but not limited to any stock stored on the Client's site by Concorde Communications and all Goods not paid for in full by the Client), and Concorde Communications may enter any premises to recover and remove such property. Any property not recovered will be charged at cost plus reasonable costs of procuring same.

11.6 Post-termination assisted handover: where the Client requires Concorde Communications resources to provide technical assistance with the migration of services to a new supplier then Concorde Communications reserves the right to provide this on a chargeable basis in line with our prices at the time of request or as stated in the contract service delivery document.

**12. CONFIDENTIALITY**

12.1 Each of the parties undertakes to the other to keep confidential all information (written or oral) concerning the business and affairs of the other that it shall have obtained or received as a result of the discussions leading up to or entering into or during the execution of this agreement save that which is:

12.1.1 Insignificant or obvious;

12.1.2 Already in its possession other than as a result of a breach of this clause;

12.1.3 Already generally available and in the public domain otherwise than as a result of a breach of this clause;

12.1.4 A disclosure by either party of any document related to this agreement to which it is a party and which the other party (acting reasonably) has agreed with the disclosing party contains no commercially sensitive information.

12.2 Each of the parties undertakes to the other to take all such steps as shall from time to time be necessary to ensure compliance with the provisions of Clause 12.1 by its employees, agents or sub-contractors.

12.3 Where either party, in carrying out its obligations under this agreement, is provided with information relating to people, that party shall not disclose or make use of any such information otherwise than for the purpose for which it was provided unless that party has so sought the prior written consent of that person and has obtained the prior written consent of the other party.

**13. ENGAGEMENT OF STAFF & TUPE**

13.1 Concorde Communications will normally carry out work and render SERVICES during Concorde Communications normal working hours unless agreed otherwise in this agreement pertaining to the applicable Services. Concorde Communications may agree to work outside Concorde Communications normal working hours. All work rendered outside Concorde Communications normal working hours will be subject to reasonable Additional Charges.

13.2 Neither party shall directly or indirectly, during the duration of this agreement or at any time within twelve (12) months after the termination of this Agreement:

13.2.1 Solicit or entice away or employ or attempt to solicit or entice away or employ any of the other party's employees who is directly associated with the performance of this agreement.

13.2.2 Retain, engage or in any other way whatsoever have the benefit of the services of the other party's employees who are directly associated with the performance of this agreement other than pursuant to the terms of this agreement.

13.3 Concorde Communications Personnel engaged in the provision of the Service will remain under the management and control of Concorde Communications whatever degree of supervision may be exercised by the Client over those personnel and in no circumstances will the Client become the employer of those personnel.

13.4 The Client and Concorde Communications agree that the commencement of the provision of the ordered Services by Concorde Communications under this agreement will not be a "relevant transfer" to which TUPE will apply in relation to any employees of the Client. In the circumstances, the Client and Concorde Communications agree that no employees of the Client will transfer to Concorde Communications by virtue of the operation of TUPE or the Acquired Rights Directive.

13.5 If any employee of the Client or any party rendering services similar to the services that Concorde Communications is rendering to the Client under this Agreement claims or it is determined that his contract of employment has been transferred to Concorde Communications pursuant to TUPE or the Acquired Rights Directive then:

13.5.1 Concorde Communications will, within 20 (twenty) days of becoming aware of that fact, give notice in writing to the Client.

13.5.2 The Client may offer employment to such person within 21 (twenty-one) days of the notification by Concorde

Communications or take such other steps as it considers appropriate to deal with the matter.

13.5.3 If such offer is accepted (or if the situation has otherwise been resolved by the Client), Concorde Communications shall immediately release the person from his employment.

13.5.4 If after the 21 day period has elapsed, no such offer of employment has been made, or such offer has been made but not accepted, or the situation has not otherwise been resolved, Concorde Communications may within 7 (seven) days give notice to terminate the employment of such person.

13.5.5 Subject to Concorde Communications acting in the way set out in this clause, the Client will indemnify Concorde Communications against all employee liabilities arising out of such termination.

13.5.6 If such person is neither re-employed by the Client nor dismissed by Concorde Communications within the time scales set out in this clause 13.5 such person will be treated as having transferred to Concorde Communications by virtue of the operation of TUPE and Concorde Communications shall comply with such obligations as may be imposed upon it under TUPE or otherwise by law.

#### 14. DATA PROTECTION

14.1 Obligations of the Service Provider

14.1.1 Without prejudice to Article 28 (10) of the GDPR, the Service Provider acts as a Data Processor in respect of the Personal Data which it Processes on behalf of the Client.

14.1.2 The Service Provider agrees and warrants:

14.1.2.1 That it shall acquire no rights or interest in the Personal Data, and shall procure that its personnel only, Process the Personal Data only on behalf of the Client and in accordance with this agreement and any other written instructions of the Client unless required to do so by Union or Member State Law;

14.1.2.2 That if it cannot comply with the instructions of the Client for whatever reason, it shall immediately inform the Client of its inability to comply, in which case the Client will be entitled to terminate this agreement;

14.1.2.3 That it shall process the Personal Data in accordance with Data Protection Law (meaning EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended replaced, or superseded from time to time, including the General Data Protection Regulation (Regulation (EU) 2016/679 of the European Parliament and the Council of 27 April 2016) (the 'GDPR') and laws implementing or supplementing the GDPR);

14.1.2.4 That it has implemented appropriate technical and organisational measures for the Processing of the Personal Data appropriate to protect the Personal Data against accidental or unlawful destruction or accidental loss, alteration, unauthorised disclosure or access, and that these measures ensure a level of security appropriate to the risks presented by Processing the Personal Data and the nature of the Personal Data to be protected including:

- a. the pseudonymisation and encryption of Personal Data;
- b. the ability to ensure the ongoing confidentiality, integrity, availability, and resilience of the Suppliers systems used for such Processing, the Personal Data and the Services;
- c. the ability to restore the availability and access to the Personal Data in the event of a physical or technical incident; and
- d. a process for regularly testing, assessing and evaluating the effectiveness of technical and organisational measures for ensuring the security of the Processing;

14.1.2.5 That it shall assist the Client within such reasonable timescale as may be specified by the Client in complying with the Client's obligations pursuant to:

- a. Article 32 of the GDPR (Security);
- b. Articles 33 and 34 of the GDPR (Data Breach Notification);
- c. Article 35 of the GDPR (the conduct of Data Protection Impact Assessments); and
- d. Article 36 of the GDPR (Prior Consultation requests to Regulators in relation to Personal Data Processing under this agreement);

16.1.2.6 That its Personnel who Process Personal Data under this Agreement are subject to obligations of confidentiality in relation to such Personal Data;

14.1.2.7 That Personal Data received from the Client shall not be transferred to or accessed by any other party or Sub-Processor including non-authorised personnel of the Client, other than those Sub-Processors listed in Schedule 12 without prior written permission from the Client;

14.1.2.8 That Personal Data received from the Client shall not be transferred outside the European Economic Area without the prior written consent of the Client and in accordance with any terms the Client may impose on such transfer;

14.1.2.9 That it will assist the Client, including taking appropriate technical and organisational security measures which take into account the nature of the Processing, to respond to the requests by Data Subjects, exercising their rights under Data Protection Law, within such reasonable timescale as may be specified by the Client;

14.1.2.10 That it will notify the Client:

a. without undue delay and in any event within twenty-four (24) hours of the service provider becoming aware of a Data Security Breach and shall include in such notification at least the applicable information referred to in Article 33(3) of the GDPR. The Service Provider shall not communicate with any Data Subject in respect of Data Security Breach without the prior written consent of the Client;

b. immediately if, in its opinion, an instruction given, or request made pursuant to this agreement infringes Data Protection Law; and

c. immediately of any request received directly from a Data Subject without communicating with any Data Subject in respect of that request, unless it has otherwise been advised to do so by the Client;

14.1.2.11 That if it infringes the GDPR by determining the purposes and means of Processing it shall be considered to be a Data Controller in respect of that Processing; and

14.1.2.12 That it shall make available to the Client all the information necessary to demonstrate compliance with the obligations set out in Article 28 of the GDPR and at the request of the Client submit its data processing facilities for audit of the Processing covered by this agreement, including inspections, which shall be carried out by the Client or an inspection body composed of independent members and in the possession of the required professional qualifications bound by a duty of confidentiality, selected by the Client, where applicable, in agreement with the supervisory authority.

14.2 Approved Sub-Processors

14.2.1 The Service Provider agrees that it shall not engage any third party to Process the Personal Data without the prior written consent of the Client.

14.2.2 The Service Provider shall inform the Client of any intended changes concerning the addition or replacement of Sub-Processors and shall not make any such changes without the prior written consent of the Client

14.2.3 If the Service Provider engages any third party to Process any of the Personal Data, the Service Provider shall impose on such third party, by means of a written contract,

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the same data protection obligations as set out in this agreement and shall ensure that if any third party engaged by the Service Provider in turn engages another person to Process and Personal Data, the third party is required to comply with all of the obligations in respect of Processing of Personal Data that are imposed under this agreement.

14.2.4 The Service Provider shall remain fully liable to the Client for Processing by any third party as if the Processing was being conducted by the Service Provider.

#### 15. FORCE MAJEURE

15.1 Neither party shall be liable for any breach of its obligations resulting from causes beyond its reasonable control including but not limited to flood, storms, fire, strikes (of its own or other employees), insurrection or riots, embargoes, container shortages, wrecks or delays in transportation, acts of God, inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an "Event of Force Majeure")

15.2 Each of the parties agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

#### 16. DISPUTE RESOLUTION

16.1 The parties shall attempt to resolve any dispute relating to the agreement through negotiations between senior executives of the parties who have authority to settle the dispute.

16.2 If the matter is not resolved through negotiation within 30 days after it was raised for the first time by a senior executive of one of the parties, the dispute may be referred by either party to the English courts and the parties submit to their non-exclusive jurisdiction on the matter. In the event that both parties cannot agree, the matter can then be referred to be settled by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.

#### 18. INTELLECTUAL PROPERTY RIGHTS

18.1 Unless agreed to otherwise in this agreement, the parties retain copyright in all specifications and documents provided by them, and neither the whole nor any part of such specifications or documents shall be reproduced in any form without the prior written permission of the party providing such specifications or documents.

18.2 No title or ownership of software licensed to the Client under this agreement is transferred to the Client under any circumstances unless specifically agreed to otherwise in writing.

#### 19. GENERAL

19.1 No terms and conditions shall be deemed to have been waived and no breach or default excused unless such waiver or excuse shall be in writing and signed by the party issuing the same.

19.2 The waiver by either party of a breach of default of any of the provisions of this agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions, nor shall any delay or omission on the part of either party to exercise or avail itself of any right power or privilege that it has or may have hereunder operate as a waiver or any breach of default by the other party.

19.3 Any notice, request, instruction or other document to be given shall be delivered or sent by registered post or by facsimile (such facsimile notice to be confirmed by letter posted by registered post within 12 hours) to the address of the other party stipulated on Schedule A (or such other address as may have been notified in writing) and any such

notice or other document shall be deemed to have been served (if delivered) at the time of delivery (if sent by post) upon the expiration of 48 hours after posting and (if sent by facsimile) upon the expiration of 12 hours after despatch.

19.4 If any provision of this agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, the invalidity or unenforceability of such provision shall not affect the other provisions of this agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

19.5 These General Terms and Conditions together with any Service Modules, Service Delivery Documents, Schedule A and Schedules embodies the entire legal and contractual relationship between the parties relating to the subject matter of this agreement and, except in the case of any fraudulent misrepresentation made by either party in connection with the subject matter of this agreement and terminates, cancels and supersedes all prior representations, agreements or understandings (written or oral) with respect to this agreement and its subject matter.

19.6 These General Terms and Conditions and any Service Module, Service Delivery Document, Schedule A and Schedules shall be binding upon and ensure for the benefit of the successors in title of the parties.

19.7 Other than the assignment of this agreement to another wholly-owned subsidiary in the parent group, neither party shall be entitled to assign this agreement or transfer all or any of their rights and obligations hereunder without the prior written consent of the other (such consent not to be unreasonably withheld).

19.8 A person who is not party to this agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.

19.9 This Agreement shall be governed by and construed in accordance with English Law and is subject to the jurisdiction of the English Courts.

19.10 Concorde Communications reserves the right to subcontract the whole or part of any works and services rendered under this agreement.

19.11 No variation to this agreement shall be effective unless in writing signed by an authorised signatory of the parties hereto.

19.12 Nothing in this agreement is intended or shall be construed to create a relationship of agency, partnership, or a fiduciary relationship between the parties. Accordingly, except as expressly authorised herein, neither party shall have the authority to act or make representations on behalf of the other party.

19.13 Headings to clauses are for the purpose of information and identification storm, fire, strikes (of its own or other employees), insurrection or riots, only and shall not be construed as forming part of this agreement.

19.14 No employee, agent or representative has the authority to make any warranty, statement or promise concerning the Services or Goods except in writing and signed by a duly authorised officer of Concorde Communications.

**20. ENTIRE AGREEMENT**

This agreement constitutes the entire and only legally binding agreement between the parties relating to the Engagement and replaces any previous agreements or arrangements. No other representations, promises, guarantees, agreements, compromises or securities (either express or implied) besides those expressly established in this agreement exist. No variation to these terms on behalf of Concorde Communications can be made otherwise than in writing signed by a director of the Concorde Communications.