

Terms and Conditions of Business

These Conditions apply to all Goods and/or Services purchased from the Company.

1. DEFINITIONS AND INTERPRETATION

1.1 In these Conditions the following words and expressions will have the meanings adjacent to them:

‘Additional Maintenance Services’ means in relation to the Maintenance Services, the additional, supplementary or extra services requested by the Customer, provided by the Company, evidenced in writing and which are not included in the Customer’s Maintenance Service Package and which constitute Excluded Maintenance;

‘Additional SIM and GMS Services’ means, in relation to the SIM and GMS Services, the added, supplementary and/or extra services (if any) requested by the Customer, provided by the Company during the Term, evidenced in writing and/or as specified on the Onboarding Form;

‘Agreement’ means the contract in place for the provision of Goods and/or Services between the Customer and the Company including the Onboarding Form, Special Terms (if any), Price List, Rate Card, Specification, SIM Provision Contract and these Conditions;

‘Airtime Service’ means the wireless airtime service, which the Company will procure, for the Customer from the Network Operator;

‘Ancillary Costs’ means accommodation, subsistence costs and travel charges including but not limited to, taxi, mileage and ferry charges in relation to the provision of the Services and/or Goods;

‘Annual Service Fee’ means the annual fee payable by the Customer to the Company in exchange for the performance of the Maintenance Services by the Company as specified in the Onboarding Form;

‘Business Day’ means 9.00 am to 16:30 on any day other than a Saturday or Sunday or public holiday in England and Wales and factory shutdown periods (unless varied in the Onboarding Form under the heading ‘Special Terms’);

‘Call Out Service’ means the request by the Customer for the Company to visit the Site to fix and/or maintain the Goods;

‘Call Out Service Fee’ means the fee payable for the Call Out Service as specified on the Company’s Price List current at the time of the Call Out Service is performed by the Company and applicable where the Customer does not currently subscribe to one of the Company’s Maintenance Service Packages;

‘Cancellation Fee’ means in relation to the Call Out Service, the cost of two hours of the Company’s representative’s time calculated in accordance with the Rate Card plus any Ancillary Costs incurred by the Company;

‘Cancellation Period’ has the meaning attributed to it in clause 3.3 of these Conditions;

‘Commencement Date’ means the date when the Maintenance Agreement will begin, the Installation Services and/or other Services will be performed and/or when the Goods shall be delivered as specified as such in the Onboarding Form or such other date as the Company shall notify the Customer in writing;

‘Company’ means the relevant member company of the PACE Group of companies whose full contact and identification details are specified in the Onboarding Form and whose parent company is PACE Group Holding Ltd (15684893);

‘Conditions’ means these terms and conditions which are incorporated into and form the legal basis of the Agreement;

‘Consumer’ means the Customer where they are a person who is purchasing the Goods and/or Services does so outside of the ordinary course of their business;

‘Customer’ means the legal person to whom the Company is to provide the Services and/or Goods and whose identity and contact details are set out in the Onboarding Form and unless otherwise expressly specified includes Consumers;

‘Dedicated Power Supply’ means the permanent electricity supply that exclusively provides electricity power to the Lift being installed or maintained by the Company and which utilises an electric isolator in compliance with the then current industry standard electricity supply regulations and which in all material respects shall comply with the then current industry standard electricity supply regulations;

‘Device’ means a wireless GSM device or other equipment belonging to the Customer into which the SIM Card will be inserted;

‘Dislipidation Report’ means the report prepared by the Company, at the Company’s discretion to assess any dislipidation of the Goods that as more than 10% of the Maintenance Agreement;

‘Equipment’ means any tools, materials, plant, machinery, resources and/or apparatus which is utilised by the Company for the benefit of the Customer in the provision of the Goods and/or performance of the Services and which belongs to the Company at all times;

‘Event of Force Majeure’ means any events or circumstances beyond that party’s reasonable control including, without limitation, acts of God, acts of Government or other competent regulatory authority, telecommunications network operators, third parties, war or national emergency, pandemics, riots, civil commotion, fire, explosion, flood, epidemic, lock-outs, strikes and/or other industrial disputes (in each case, whether or not relating to that party’s workforce) ‘Excluded Maintenance’ means any maintenance service or work that is not included in the customer’s maintenance package as more particularly specified in clause 8.8 of these Conditions;

‘Express Start Form’ means the Company’s form and information regarding the Consumer Customer’s right to cancel the Agreement during the Cancellation Period and which is provided by the Company to the Customers who are Consumers;

‘Goods’ means the Lift, the Device and any other products, materials, equipment, spare parts and items sold and/or installed by the Company in the course of providing the Installation and Maintenance Services to the Customer;

‘Good Working Order’ means operating in accordance with the applicable specification of the manufacturer of the Goods (or that of the Customers equipment, plant machinery lifts or other vertical elevation equipment) and/or in a condition that is acceptable to the Company;

‘Hazardous Material’ includes any hazardous or toxic material (which may if brought into contact or close proximity to a Company employee have adverse consequences to health), techniques or processes;

‘Initial Term’ means in relation to the Maintenance Services the period as specified in the Onboarding form during which time the Customer may not terminate without first paying a Maintenance Termination Fee;

‘Insolvency Event’ means an event that occurs in respect of a party when:

- a winding-up order or bankruptcy order is made against that party or that party passes a resolution or makes a determination for it to be wound up;
- a receiver, manager or equivalent is appointed over the whole or any part of that party or its assets;
- any arrangement, compromise or composition in satisfaction of that party’s debts is proposed or entered into, or that party ceases or suspends payment of any of its debts, or is deemed to be insolvent or unable to pay its debts by any applicable laws;
- that party threatens to cease or actually ceases to carry on all or a substantial part of its business;
- that party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits liability 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 as if the words “it is proved to the satisfaction of the court” did not appear in sections 123(1)(e) or 123(2) of that Act;
- any similar event occurs in relation to that party in any jurisdiction in which it is incorporated, resident or carries on business;

‘Inspection Fee’ means the fee payable as required under clause 8.3.1 and/or 8.3.9 of these Conditions for the the Company’s inspection of the Site and the Customer’s equipment and/or the Goods;

‘Installation Services’ means major refurbishment and installation the Goods;

‘Losses’ means any and all liabilities, costs, expenses (including administration costs, legal and other professional costs and expenses on a full indemnity basis), damages, (including damage to any property caused directly or indirectly) awards, orders, claims (actual or threatened), fines, penalties, charges, interest losses (including direct and indirect or consequential losses, loss of profits, lost opportunities, lost benefits and/or loss of goodwill and/or damage to reputation);

‘Lift’ means lifts, and other vertical elevators and transportation provided by the Company for the Customer as specified on the Onboarding Form;

‘Maintenance Services’ means the annual subscription to the maintenance services (the scope of which are set by the Company in their absolute discretion and notified to the Customer from time to time) and/or one-off maintenance service call outs provided by the Company for the Customer in exchange for the Price and as specified on the Onboarding Form or otherwise in writing;

‘Maintenance Service Agreement’ means the Agreement between the Company and the Customer whereby the Company provides the Maintenance Services to the Customer for the Annual Service Fee as specified in the Onboarding Form or otherwise in writing;

‘Maintenance Service Package’ means the bundle or collection of Maintenance Services which the Customer has elected to purchase and receive as specified on the Onboarding Form and which are more particularly described in appendix 1 of these Conditions;

‘Maintenance Termination Fee’ means the money that the Customer must pay to the Company calculated in

accordance with clause 13.10.3 of these Conditions where the Customer terminates the Maintenance Service Agreement prior to the expiry of the Initial Term;

‘Minimum Period’ means, in relation to the SIM Services, the shortest amount of time permitted for the term of the SIM Services as detailed on the Onboarding Form which will begin on the specified Commencement date being the date of connection of each SIM Card to the Network;

‘Network’ is the cellular mobile telecommunications network(s) and/or the electronic communications network or service to which the Device is connected pursuant to this Agreement;

‘Network Operator’ means the legal entity identified in the Onboarding Form and who provides the Network as part of the SIM and GMS Services;

‘Onboarding Form’ means the form, document and/or sheet that is completed by the Company to reflect all of the specific details of the Agreement (including but not limited to, Commencement Date, Prices, Specifications, address of the Site for installation or performance of the Services, Customer contact details, Special Terms the Company details) with the Customer and that is particular to each Customer;

‘Price’ means the total charges, fees (including but not limited to fees for the Support Services and/or Installation Services, the Annual Service Fee, Call Out Service Fee, and/or the Inspection Fee, SIM Card Charge), Ancillary Costs and/or expenses to be paid by the Customer to the Company for the Goods and/or Services and which are more particularly set out in the Onboarding Form and any additional charges levied by the Company where Site was not Site Ready;

‘Services’ means the Installation Services, Maintenance Services, Call-Out Services and/or the SIM and GMS Services and/or a combination of these Services as evidenced in writing and/or as specified on the Onboarding Form;

‘SIM and GMS Services’ means the Airtime Service, the Support Service and the Additional SIM and GMS Services;

‘SIM Card Charge’ means the charges payable by the Customer to the Company pursuant to this Agreement and as they relate to the provision of SIM and GSM Services and this term shall include the rates at which the Company will recharge the Customer for calls made and services chosen or used by the Customer in relation to access to the Network as specified on the Onboarding Form and which may be amended by the Company from time to time;

‘SIM Card’ means a subscriber identity module, which the Company will procure for, and supply to the Customer (and which at all times remains the property of the Network Operator), which allows the Customer to connect a Device to the Network;

‘SIM Provision Contract’ refers to the contract between the Customer and the Network Operator for the provision of the SIM card and access to the Network;

‘Site’ means the premises, building, address, geographical location where the Installation and/or Maintenance Services are to be performed and where the Goods and/or Lift or the customers lift or other equipment (which are to be the subject of the Services) are located;

‘Site Ready’ has the meaning attributed to it in clause 4.4 of these Conditions;

‘Special Terms’ means terms that the Company and the Customer have expressly agreed and specified in the Onboarding Form which will override and take priority over these Conditions on condition that the Onboarding Form that contains the special terms, has been signed by a senior member of the Company’s management team;

‘Specification’ means the description, measurements, design, plans, drawings, conditions, standard, and/or quality of the Goods and/or Services to be provided by the Company to the Customer under this Agreement and which shall include, but not be limited to, the scope of services and/or scope of work as may be appended to these Conditions and/or the Onboarding Form;

‘Support Service’ means any ongoing customer telephone support service provided by the Company to the Customer;

‘Term’ means the duration of the Agreement as detailed on the Onboarding Form and this expression shall also include any Initial Term, or Extended Term (as defined below);

‘Termination Fee’ means the line rental and other charges for the period from the date of disconnection of a SIM Card/Device up to and including to the date of the end of the Minimum Period in respect of that SIM Card/Device, an administration fee of £50 per SIM Card/Device connected, removal costs, and any other charges payable by the Customer to the Company as set out in this Agreement that relates to the early termination of the Agreement; and

‘Third Party Services’ means the additional services (if any) which are supplied to the Customer by a third party which the Company may bill the Customer for through this Agreement as a disbursement.

1.2 The headings in these Conditions are for convenience only and will not affect their interpretation. Words importing the singular shall include the plural and vice versa and words denoting any gender shall include all genders.

1.3 The Customer agrees and acknowledges that:

- 1.3.1 all contracts arising out of any orders placed by the Customer are subject to these Conditions whether or not such orders make reference to these Conditions. These Conditions shall take priority over any terms contained within such orders
- 1.3.2 they waive any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Customer that are inconsistent with these Conditions;
- 1.3.3 these Conditions supersede all previous terms and conditions and replace any terms and conditions previously notified to either party;
- 1.3.4 if there is any conflict between any of the terms of this Agreement then the parts of this Agreement shall take priority in the following order:
 - (a) the Special Terms (if any);
 - (b) the Conditions contained in this document;
 - (c) the Specification;
 - (d) the Price List; and
 - (e) the Rate Card
- 1.3.5 except where fraud is proven, the Company shall not incur any Losses for statements, warranties and/or representations not written down in these Conditions unless made in writing and signed under hand and in manuscript by senior member of the Company’s management team; and
- 1.3.6 these Conditions cannot be varied or amended in any way unless evidenced by an Onboarding Form which has been signed off by a member of the Company’s senior management team and it is the responsibility of the Customer to check the authority of the Company’s representative to make these amendments if the Customer seeks to rely on the special terms that amend these Conditions.

1.4 No party has relied upon any verbal statements, warranties, representations or undertakings made by any other party.

1.5 Except as expressly provided in the Agreement:

- 1.5.1 there are no warranties, representations, undertakings or conditions (statutory or otherwise) made by either party and all warranties, representations, undertakings and conditions (statutory or otherwise) implied to be made by either party, including (except where the Customer is a Consumer) implied warranties as to satisfactory quality and fitness for a particular purpose, are hereby excluded to the maximum extent permitted by law; and
- 1.5.2 no party gives any warranty or undertaking or makes any representation (whether express or implied) as to the completeness or accuracy of any statement made by or on behalf of that party or other information included in the documentation (including without limitation any samples, drawings, descriptive matter, advertising and/or marketing collateral produced by the Company and any descriptions or illustrations contained in the Company’s catalogues or brochures) provided by or on behalf of that party to the other prior to the execution of this Agreement or otherwise communicated in any manner whatsoever to the other party, its employees, agents, sub-contractors or advisors prior to the execution of this agreement (together, the ‘Background Information’).

1.6 Save as provided in the Agreement, neither party, nor any of their employees, agents, sub-contractors or advisors shall be liable to the other or to any third party in contract, tort (including negligence or breach of statutory duty), statute, common law or otherwise as a result of any of the Background Information being incomplete or inaccurate or in relation to any of the Background Information whatsoever (provided that neither party hereby excludes or restricts any liability for death or personal injury due to their negligence, fraud and/or fraudulent misrepresentation and provided the Customer is not a Consumer). Background Information shall not form part of the Agreement and shall have no contractual force or effect.

2. CONTRACT FORMATION AND ONBOARDING FORM

2.1 The Customer’s order constitutes an offer by the Customer to purchase the Goods and/or Services in accordance with these Conditions. The Customer is responsible for ensuring that the details of the order and any applicable Specification submitted by the Customer are complete and accurate.

2.2 The Customer’s order shall only be deemed to be accepted when the Company issues a written order acknowledgement (in the form of the Onboarding Form). Agreements for Goods and Services are formed on the date shown on the Company’s order acknowledgement (in the form of the Onboarding Form).

2.3 Where the Customer is not a Consumer, orders must be in writing quoting an official order number. Acceptance of orders by the Company will be in writing in the form of the Onboarding Form or other document bearing the Company’s branding and for the purposes of repeat orders or orders from Customers who have already executed an Onboarding Form, confirmation of acceptance of the Customer’s order by the Company by email is accepted as confirmation in writing.

2.4 Any samples, drawings, descriptive matter, advertising and/or marketing collateral produced by the Company and any descriptions or illustrations contained in the Company’s catalogues or brochures are produced for the sole purpose of giving an approximate idea of the Goods and/or Services referred to in them. They shall not form part of the Agreement nor have any contractual force. The Goods are as set out in the Specification.

2.5 A quotation for the Goods and/or Services given by the Company shall be an invitation to treat and shall not constitute an offer. A quotation shall only be valid for a period of 30 Business Days from its date of issue.

2.6 The parties agree and acknowledge that this Agreement does not constitute an exclusive arrangement between the parties for the purchase or supply of any Goods and/or Services and that the Company may provide goods and services that are the same as or similar to the Goods and/or Services to any other third party and the Customer may receive goods and services similar to and/or the same as the Goods and/or Services from any third party.

3. OWNERSHIP OF DEVICE

3.1 In relation to the ownership of the SIM Card and Device (or any other Device supplied by the Company) the Customer agrees and acknowledges at all times that:

3.1.1 the ownership of the SIM Card remains the property of the Company throughout the Term;

3.1.2 where the Customer has paid the Price for the Device up front, the ownership of the Device (or any other device supplied by the Company) will be the property of the Customer throughout the Term;

3.1.3 where the Customer makes payments of the Price for the Device in instalments, the Device will be the property of the Company throughout the Term unless or until the full Price for the Device is received by the Company. Once the full Price of the Device has been received by the Company, the Device shall become the property of the Customer, the Company reserves a right of lien against the Device until all monies due under any other part of the Agreement are paid in full and received by the Company;

3.1.4 where the Customer pays any applicable charges or fees for the Device in instalments and the Maintenance Agreement is terminated early for any reason, the Device will be the property of the Company;

3.1.5 the Company reserves the right to remove the SIM Card and/or Device at any time;

3.1.6 upon termination or expiry of this Agreement the Customer must return the SIM Card and/or (subject to clause 3.1.3 of these Conditions) the Device and any other sim cards or devices supplied by the Company back to the Company;

3.1.7 the Company may charge the Customer if they wish to keep the SIM Card(s), Device(s) and/or telephone numbers associated with those Sim Cards following termination of the Agreement; and

3.1.8 All trademarks, branding, logos or other intellectual property belonging to the Company, the Network Operator or any other supplier or manufacturer of SIM Cards/Devices or other equipment supplied to the Customer will at all times remain the property of its owner. The Customer must not alter, remove or tamper with any such trademarks, branding, logos or other intellectual property without obtaining the prior written consent of their owners.

3.2 On advising the appropriate representative of the Customer, the Company shall have the right but shall not be obliged to mobilise the Goods if, in the Company’s opinion, not to do so may risk injury or damage to any person or property.

4. DELIVERY

4.1 Estimated delivery and completion dates will be detailed on the Onboarding Form.

4.2 The Company shall not be responsible for the delay or extension of the estimated delivery and completion dates where such delay or extension is due to, whether directly or indirectly:

- 4.2.1 the acts or omissions of the Customer;
- 4.2.2 the acts or omissions of any other third party including but not limited to:
 - (a) anyone in the Company’s supply chain; and/or
 - (f) the receipt of any necessary licences, permits and/or approvals;
- 4.2.3 any other matters or events outside of the Company’s control.

4.3 All delivery and performance dates and times provided are to be treated as estimates only and do not form any contractual obligation on the part of the Company.

4.4 A quotation or fee estimate is given on the assumption that the Customer will, at it’s own expense before the date of delivery specified on the Onboarding Form, ensure that the Site is Site Ready as defined below, before commencement of the Installation Services. A site is deemed ‘ready’ when:

- 4.4.1 all necessary building work prior to Commencement Date is completed to specification;
- 4.4.2 the Dedicated Power Supply is fully operational;
- 4.4.3 there are no other trades people working overhead in the area of the Lift;
- 4.4.4 there are no other trades people working in the area of the Lift installation at upper or lower levels of the Site;
- 4.4.5 there is sufficient lighting in the area of installation;
- 4.4.6 there is access to power supply for power tools and other equipment as may be reasonably required in the course of the Company carrying out the Installation Services in the area of installation;
- 4.4.7 there are clear and unimpeded access routes from the specified unloading/parking area to the Lift installation area;
- 4.4.8 the Company has been provided with full and unfettered access to unloading/parking on Site;
- 4.4.9 the Company is provided with full access and unfettered access to the Site during and within the relevant Business Day for the duration of Installation Services. (‘Site Ready’).

4.5 In the event that the Site is not Site Ready, when the Goods are delivered on the Commencement Date for Installation Services then the following additional charges will apply:

- 4.5.1 the full installation Fee as stated in the Onboarding Form;
- 4.5.2 the Price for the Lift will be invoiced in full and become payable on the agreed terms;
- 4.5.3 an additional installation charge will become payable once installation has been completed which will be calculated in accordance with the Rate Card; and
- 4.5.4 any applicable Ancillary Costs.

4.6 If a Dedicated Power Supply is not available on the date that the installation Services are being performed, then the installation may need to be aborted and the charges outlined in clause 4.5 of these Conditions will be applicable. If a temporary supply is available, it may be possible to install the Goods but not commission them.

4.7 Where a further commissioning visit is required:

- 4.7.1 an additional cost, equivalent to one day’s installation charge which will be calculated in accordance with the Rate Card, will be incurred and payable by the Customer;
- 4.7.2 the Customer will be asked to sign appropriate paperwork on Site and the full installation Price will be invoiced and become payable in accordance with these Conditions;
- 4.7.3 A new delivery date or commissioning visit will be agreed which will normally be a minimum of 4 weeks from the original date;

4.8 Once a delivery/installation or commissioning date has been agreed the Customer must give at least 10 Business Days’ written notice prior to the delivery, installation, or commissioning date notified to the Customer by the Company, of the Customer’s intention to delay. Failure to provide this notice period will result in the additional charges outlined at clause 4.5 of these Conditions becoming due.

5. QUALITY OF GOODS

5.1 The Company warrants the workmanship of the Services for a period of 12 months from the date of delivery to the Site or completion of installation. This period cannot be extended. Provided the Customer has promptly notified the Company of any defects in the Goods, the Company will reperform (at its own absolute discretion) any part of the Services which requires reperformance due to defective workmanship PROVIDED ALWAYS THAT:

- 5.1.1 the defective due to any loss, damage, or misuse caused by the Customer or the end user;
- 5.1.2 failure to comply with clause 11 (terms of payment) or clause 9.2 (Customer Obligation) will result in the suspension of this guarantee until such time as all overdue accounts are paid in full. If any remedial work is required whilst the guarantee is under suspension, such work will be charged for at the Company's attendance rates current at the time of the visit;
- 5.1.3 the Company's obligations under this warranty shall not apply in the event that the Goods have been used otherwise than for the intended normal use by the Customer, the owner of the Site (where the Customer is not the owner), or others with their permission;
- 5.1.4 the Company makes to guarantee as to the manufactured quality of the Goods as it is not the manufacturer;
- 5.1.5 this guarantee will be extinguished if the Customer has permitted another maintenance service provider to inspect, repair, adjust or tamper with the Goods without the prior written consent of the Company;
- 5.1.6 the benefit of this guarantee will apply only to the Customer and is not transferable and has no monetary value or equivalent;
- 5.1.7 if the Customer wishes to collaborate with the Company during the 12-month warranty period regarding the maintenance and call out responsibility the Company will enter into a service agreement with the Customer and the terms of that agreement (based in all material respects on the terms within these Conditions) will apply in respect of those activities.

5.2 Unless otherwise expressly stated in the Special Terms, the guarantee does not cover any call out costs and/or charges that occur due to a faulty emergency communication.

6. SPECIFICATION AND ALTERATIONS TO SPECIFICATIONS

- 6.1 The Company reserves the right to correct clerical errors in Specifications, marketing collateral or other communications at any time and where such corrections have been made the Company will notify the Customer accordingly.
- 6.2 Any drawings and particulars submitted by the Company with a fee estimate or quotation are approximate only and will not form part of the Agreement. The drawings, plans and particulars provided by the Company, with the Onboarding Form will be the official and formally binding Specification. All documentation, drawings and data supplied by the Company to the Customer are confidential and proprietary to the Company and must be copied to any other person or used for any other purpose whatsoever. Copyright remains the property of the Company.
- 6.3 The Company reserve the right to alter the Specification and design of any Goods without prior reference to the Customer provided that the Goods comply in all other known and material respects with:
 - 6.3.1 the Customer's requirements;
 - 6.3.2 relevant health and safety requirements;
 - 6.3.3 supply chain demands;
 - 6.3.4 the Price;
 - 6.3.5 the nature or quality of the Installation Services;
 - 6.3.6 the performance of the Goods; and
 - 6.3.7 the aesthetic appearance of the Goods (if specifically provided for in the Specification).
- 6.4 Notwithstanding clause 6.3 of these Conditions, the Company reserves absolutely the right to amend the Specification (so far as it relates to the Installation Services) if necessary to comply with any applicable law, statutory, regulatory or health and safety requirement.
- 6.5 To the extent that the Life is to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Company against any and all Losses suffered or incurred by the Company in connection with any claim (actual or threatened) made against the Company for infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the Specification. This clause 6.5 shall survive termination of the Agreement and is not subject to any limitations or exclusions within that may be contained in the Agreement.

7. TITLE AND RISK

- 7.1 Notwithstanding delivery and passing of risk, the title in all Goods supplied by the Company shall remain with the Company until full payment of the Price has been received by the Company. Payment of the Price in full for the purposes of the Agreement and passing of ownership in the Goods from the Company to the Customer, shall mean payment that has been received for:
 - 7.1.1 all Goods and/or Services which are the subject of this Agreement as specified in the Onboarding Form; and
 - 7.1.2 all other goods and/or services supplied by the Company to the Customer under any other contract/project/ quotation whatsoever; and
- 7.1.3 without limitation, the amount of any interest (chargeable before and after judgement) or other sum payable under the terms of this Agreement and all other contracts between the Company and the Customer.
- 7.2 Any replacement part that the Company provides in the performance of the Services shall only become the Customer's property once installed and when fully paid for as above. A part removed from the Goods, for which a replacement part is provided, shall, at the Company's election and absolutely discretion, become the Company's property once the replacement part is installed.
- 7.3 The Goods shall be at the sole risk of the Customer from the time of delivery to the Site. Once delivered to the Site the responsibility to insure the Goods and Equipment (for their full replacement value) on the Site passes to the Customer. Delivery is deemed to have occurred at the point that the Goods have been off-loaded from the Company's vehicle. Once the risk has passed to the Customer such risk shall be incapable of being passed back to the Company.

8. SERVICES

- 8.1 The Company shall supply the Services to the Customer in accordance with the Specification in all material respects. The Company warrants to the Customer that the Services will be provided using reasonable care and skill.
- 8.2 The Company shall use all reasonable endeavours to meet any delivery and/or performance dates specified in the Onboarding Form, but any such dates shall be estimates only and time shall not be of the essence for performance of the Services or any other obligation of the Company under the Agreement.

8.3 Maintenance services

Inspection of the Goods

- 8.3.1 On or shortly after the Commencement Date and, where the Customer's lift or any part of it has not been installed or maintained by the Company previously and upon payment by the Customer of the Inspection Fee, the Company shall carry out an inspection of the Goods to determine whether it is in Good Working Order.
- 8.3.2 If the Company finds the Customer's lift to be in Good Working Order, it shall promptly issue a certificate to the Customer confirming this upon which the Maintenance Services Agreement will begin.
- 8.3.3 If the Company finds the Customer's lift not to be in Good Working Order, it shall issue a quotation to the Customer for the work and parts required to restore the lift to Good Working Order. The Term of the Maintenance Services Agreement will be suspended unless or until the remedial work is carried out by the Company.
- 8.3.4 If the Customer agrees to the price provided and referred to in clause 8.3.3, the Company shall carry out the work in accordance with the quotation. Upon completion of the work the Company shall submit its invoice for the work and upon payment of such invoice it shall issue a certificate to the Customer confirming that the Goods are in Good Working Order.
 - 8.3.5 If the Customer refuses the quotation, this agreement shall terminate automatically and without notice and without liability to either party, save that the Company shall be entitled to retain the Inspection Fee.
- 8.3.6 If, in the expert opinion of the Company a part to be repaired is obsolete then the Customer agrees to pay all

costs and expenses necessarily incurred in modifying the Goods to ensure compatibility with the replacement part.

Dilapidation Report

- 8.3.7 The Company may, at its discretion, require the Customer to undergo a Dilapidation Report on the goods and/or Lift at any time throughout the Term to assess the condition of the Lift.
- 8.3.8 The Company shall supply and fit at the Customer's cost (regardless of the Customer's Maintenance Service Package) such spare parts and consumables as required to maintain the Goods in Good Working Order or to restore the Goods to Good Working Order. The Price payable for the spare parts will be calculated in accordance with the then current Rate Card.
- 8.3.9 The Customer may, at the Company's discretion, be required to pay an Inspection Fee in relation to a Dilapidation Report.

Spare parts

- 8.3.10 The Company shall supply and fit at the Customer's cost (depending on the Customer's Maintenance Service Package) such spare parts and consumables as required to maintain the Goods in Good Working Order or to restore the Goods to Good Working Order. Charges for the spare parts will be calculated with reference to the Customer's Maintenance Service Package and in accordance with the then current Rate Card.
- 8.3.11 All spare parts shall be either new, or reconditioned or reassembled spare parts which are equivalent to new spare parts in performance. The Company will transfer to the Customer, with full title guarantee and free from all third party rights, all the spare parts that it provides to the Customer, and the spare parts shall become part of the Goods upon their installation into or onto the Goods.

Service Warranties

- 8.3.12 The Company warrants on an ongoing basis that:
 - (a) it shall discharge its obligations under this Agreement using personnel of the required skill, experience and qualifications and with all due skill, care and diligence and in accordance with good industry practice; and
 - (b) all spare parts, consumables and equipment supplied or used in the course of the provision of the Services shall operate materially in accordance with their technical specifications.
- 8.4 Call Out Service
 - 8.4.1 If the Customer does not have a Maintenance Package, the Company will charge the Customer the Call Out Service Fee which shall be calculated in accordance with the then current Rate Card.
 - 8.4.2 The Call Out Service Fee shall be a minimum of 2 hours of the Company's representative's time.
 - 8.4.3 The Company's costs will be calculated in accordance with the Rate Card during a Business Day, any call out where the Company's representative arrives to the Site outside of a Business Day will be subject to additional out of hours fees, calculated in accordance with the then current Rate Card.
 - 8.4.4 The Company will carry out an inspection of the Goods in accordance with clause 8.3.1.
 - 8.4.5 The Company, may charge and the Customer agrees to pay the Company for any call out to the Goods where:
 - (a) no fault exists with the Goods (incl. 'working on arrival'); or
 - (b) the cause of the fault is other than fair wear and tear; or
 - (c) the Service is described as being outside the terms of the Agreement.
 - 8.4.6 Once the Customer has notified the Company that a Call Out Service is required, the Customer may cancel the Call Out Service at any time prior to the arrival of the Company representative to the Site but they must pay the Cancellation Fee.
- 8.5 SIM Card and Device Provision
 - 8.5.1 Subject to the Company (and the Network Operator) accepting a Customer's order, the Company agrees and undertakes to use reasonable endeavours to procure the supply of the agreed number of SIM Cards and/or Devices to the Customer as set out in the Onboarding Form.
 - 8.5.2 The Device is described in the Company's catalogue as modified by any applicable Specification.
 - 8.5.3 To the extent that the Device is to be manufactured in accordance with a Specification supplied by the Customer, the Customer shall indemnify the Company against Losses suffered or incurred by the Company in connection with any claim made against the Company for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Company's use of the relevant specification. This clause 8.5.3 shall survive termination of the Agreement and is not subject to any limitations or exclusions within that may be contained in the Agreement.

8.6 SIM and GMS Services

- 8.6.1 Subject to the Company (and the Network Operator) accepting an order, the Company agrees and undertakes to use its reasonable endeavours to:
 - (a) procure from the Network Operator the Airtime Service;
 - (b) provide the Support Services during the Business Day; and
 - (c) provide the Additional SIM and GMS Services requested by the Customer as detailed on the Onboarding Form.
- 8.6.2 The Company undertakes to provide the SIM and GMS Services using its reasonable skill and care.
- 8.6.3 Where the Customer is not a Consumer, to preserve continuity of service, the Agreement in respect of the Airtime Service will be automatically renewed for a further Minimum Period at the end of the subsisting period. Where the Customer is a Consumer, the Company will agree with the Customer whether they wish the Airtime Service to continue.

8.7 Suspension, and termination of the Services

- 8.7.1 The Company may suspend the Services if the Company informs the Customer that work outside the scope of Maintenance Services is required:
 - (a) for the safe or efficient operation of the Goods or the performance of the Services and the Customer fails to have the work carried out or
 - (b) which may involve exposure to any Hazardous Material. The Customer will at its expense promptly remove or neutralise the effects of the Hazardous Material.
 - (c) The Company may stop and suspend any Services where the Dedicated Power Supply is not fully operational or where it does not meet all relevant regulatory requirements.
- 8.8 Excluded maintenance
 - 8.8.1 The Company is not obliged to perform any Excluded Maintenance.
 - 8.8.2 Where the Company is performing or has performed the Services in circumstances where it is established that the Goods were not in Good Working Order, the Company may charge, and the Customer shall pay, extra charges for the Additional Maintenance Service in respect of those Services.
 - 8.8.3 If on investigation the Company reasonably determines that any defect in or malfunctioning of the Goods is the result of the Goods not being in Good Working Order, the Customer may be required, at the Company's absolute discretion, to pay extra charges for the Additional Maintenance Service in respect of the time incurred by the Company in making the investigation and determining the cause of the defect in or malfunctioning of the Goods.
 - 8.8.4 Unless otherwise expressly stated in the scope of Services, the Service does not include any work in relation to decorative and architectural finishes or lighting, the cleaning of the bottom tracks and shaft enclosure or any work resulting from shrinkage or settlement of the building and on hydraulic lifts, the inspection or replacement of buried or sunken piping, cylinders or pistons.
 - 8.8.5 Unless otherwise expressly stated in the scope of Services, the Service does not cover any call costs and charges that are caused or arise from a faulty emergency communication.
 - 8.8.6 In no event shall the Services include work required as a consequence of accidental damage, criminal damage, vandalism or any other work required other than fair wear incurred in the ordinary and proper use of the Goods.
 - 8.8.7 Unless otherwise expressly stated in the scope of Services, the Service does not include any work necessitated:
 - (a) as a result of any failure by the Customer to comply with the provisions of the clause 9.1.2 of these Conditions; or
 - (b) by the Goods not being in Good Working Order and/or in a safe or satisfactory condition at the Commencement Date; or
 - (c) by any parts of the Goods not being in safe or satisfactory condition at the Commencement Date; or
 - (d) any work or Services which relates to the repair of a part that is, in the expert opinion of the Company is obsolete; or

(g) by modifications to the Goods not performed by the Company.

8.8.8 The Customer acknowledges that Devices will only work in the areas covered by the Network the Customer has chosen. The Customer acknowledges that the Devices may be affected by interference caused by the weather, high buildings, geographical features, tunnels and so on.

9. CUSTOMER OBLIGATIONS

Service Agreements

- 9.1 The Customer shall at all times during the Term:
 - 9.1.1 use the Goods only in accordance with the instructions and recommendations of the manufacturer of the Goods or as may be advised from time to time by the Company;
 - 9.1.2 notify the Company promptly if the Goods are discovered to be defective or malfunctioning or has failed or is otherwise not in Good Working Order;
 - 9.1.3 keep the Goods in the environmental conditions recommended by the manufacturer of the Goods or as may be advised from time to time by the Company;
 - 9.1.4 ensure that the Goods are used in a normal and proper manner, including preventing a material change in the use or usage of the Goods and the Goods are not used to lift loads in excess of the specified working load of the Goods and in accordance with the manufacturer's instructions.
 - 9.1.5 ensure that the Goods are not vandalised, abused or misused and do not suffer accidental damage;
 - 9.1.6 ensure that the Goods are kept clean, that no act or omission on the part of the Customer results the Company's cost of providing the services being increased or its ability to provide the service being adversely affected, and that the Goods not damaged by the presence of or contaminated by water or other material;
 - 9.1.7 comply at all times with the Customer's payment obligations under this Agreement;
 - 9.1.8 not allow any other person than the Company's representatives to adjust, maintain, repair, replace or remove the Goods or any part of it, unless otherwise agreed in writing by the Company; and
 - 9.1.9 not move the Goods from the Site without the prior written consent of the Company (such consent not to be unreasonably withheld or delayed).
- 9.2 The Customer shall ensure that the Company's representatives have:
 - 9.2.1 full and free and unfettered access to the Site, the Goods and to the Dedicated Power Supply and other facilities necessary to operate the Goods; and
 - 9.2.2 full and free access to any records of the use of the Goods kept by the Customer; and
 - 9.2.3 adequate and safe working space and facilities, to enable the Company to perform its obligations under this Agreement.
- 9.3 The Customer undertakes to report promptly to the Company any irregular performance of, or defect in or damage to the Goods.
- 9.4 The Customer shall, without delay, inform the Company of the occurrence of and relevant particulars of any matter giving rise to a breach of the Customer's obligation under clause 9.1.2 of these Conditions.
- 9.5 The Customer must at all times ensure that the Dedicated Power Supply is fully operational and meets all relevant regulatory requirements.
- 9.6 The Customer will comply with all Health and Safety at Work etc Act 1974, the management of Health and Safety at Work Regulation 1992, the Lifting Operations & Lifting Equipment regulations 1998 and all other environmental, health and safety and other related Acts, regulations, codes and legal obligations and good safety practices.
- 9.7 The Customer shall provide the Company with such information concerning the Goods, its application, use, location and environment as the Company may reasonably request to enable the Company to perform its obligations under this Agreement.
- 9.8 The Customer shall take all such steps as may be necessary to ensure the safety of any of the Company's representatives when attending the Site.
- 9.9 Sim Card
 - 9.9.1 The Customer must:
 - (a) ensure that all connected Devices are correctly configured to operate on the Network they are connected to. The Company and the Network will not be responsible for limiting, monitoring or barring without authorisation, any connected SIM Card or Devices that are generating adverse levels of traffic over the Network;
 - (b) make all payments due under this Agreement on time, any dispute with a third party, including but not limited to, problems with Third Party Services, hardware, supply and fitting of hardware, damage to property, software related issues which are out with the Company's direct control shall not affect the Customer's obligations of prompt and full payment to the Company;
 - (c) provide information as reasonably requested by the Company in connection with this Agreement;
 - (d) adhere to any conditions notified by the Company from time to time regarding the use of the SIM Card and/or Devices;
 - (e) comply with all these Conditions and requirements (including those issued by the Network Operator);
 - (f) not use the SIM Card/Devices or the Services for any purpose for which it was not designed or intended; and
 - (g) inform the Company immediately of any changes in the Customer's account/payment/ address/ contact and other details.
 - 9.9.2 The Customer must not:
 - (a) use the SIM Card and/or Device (or allow it to be used) for any immoral, harassing or illegal purpose. The Company may report any incidents to the police or any other relevant official organisation; or
 - (b) use any Goods, equipment or Device, which has not been approved for use on the Network. If the Customer is uncertain whether a Device is approved, the Customer must telephone The Company's Customer Services Help Line on 0330 124 2169 during a Business Day.
 - 9.9.3 This Agreement does not constitute the Company's acceptance, nor endorsement in any way that the Customer's Goods or Devices are approved for use on the Network.
 - 9.9.4 Should the Company be called to the Site to investigate an unwarranted claim against the SIM the Customer will be charged the Call out Service Fee and any associated Ancillary Costs incurred by the Company related to that visit.

Loss of SIM Card/Device

- 9.9.5 The Customer must inform the Company immediately of any loss of or damage to any SIM Card and/or Device or upon becoming aware that any party is making improper use of the same. The Customer will be responsible for any charges incurred as a result of any unauthorised use of the SIM Card/Device until such time as it has notified the Company in writing and the Company has suspended the Services to that SIM Card/Device.
- 9.9.6 If the Customer has to replace a SIM Card/Device because it has been lost, stolen, damaged or destroyed the Customer will have to pay such additional charges as are incurred by the Company as well as any applicable replacement charges and shall be liable to the Company for any charges, Losses or expenses associated with such damage.

Suspension of Service

- 9.9.7 In addition to the rights specified in this Agreement, the Company can suspend the SIM and GMS Services if the Network fails, if modification or maintenance work is being carried out, or if the Network is unavailable for any reason.

Third Party Services

- 9.9.8 The Company may in some circumstances invoice and collect payments for certain Third Party Services on behalf of the third parties supplying those services with a view to streamlining the payment process for the Customer. Third Party Services are not supplied by the Company and are supplied directly to the Customer by other third parties. The Company cannot be held liable in any way for the delivery of any Third Party Services which are supplied by third parties notwithstanding the Company's collection of the payment for those services.

10. COMPANY OBLIGATIONS

- 10.1 During the Term, the Company shall supply the Maintenance Services to the Customer.
- 10.2 A representative of the Company shall attend the Site at the frequency required in accordance with the Maintenance Service Package to perform the planned preventative Maintenance. The Company's representative

- shall perform the planned preventative Maintenance Services during a Business Day at such times as may be agreed in advance between the Customer and the Company from time to time.
- 10.3 If the Company's representative discovers that the Goods are defective or is malfunctioning or has failed or is not otherwise in Good Working Order during the course of the planned preventative Maintenance the representative will use reasonable endeavours to repair it during that visit at the Site. If that is not reasonably practicable (or it is not reasonably practicable to do so during a Business Day) the Company's representative shall either arrange for a further visit to the Site within a Business Day to complete the repair, or arrange for the removal of the Goods (or part of the Goods, if applicable) for repair them off-site.
- 10.4 On the Customer informing the Company that the Goods are defective or is malfunctioning or has failed or is not otherwise in Good Working Order, the Company shall use reasonable endeavours to ensure that one of its representatives shall:
- 10.4.1 attend the Site during Business Hours to perform corrective Maintenance Services; and
- 10.4.2 complete the corrective Maintenance Services.
- 10.5 On the Customer informing the Company that the Goods are defective or is malfunctioning or has failed or is not otherwise in Good Working Order, and requires repair outside of a Business Day, the Company shall use reasonable endeavours to ensure that one of its representatives shall:
- 10.5.1 attend the Site to perform emergency Maintenance; and
- 10.5.2 complete the emergency Maintenance.
- 10.6 Where it is not reasonably practicable for the Company's representative to complete Corrective Maintenance or emergency Maintenance at the Site on their first visit the Company's representative shall either arrange for a further visit to the Site during a Business Day to complete the repair, or arrange for the removal of the Goods (or part of the Goods, if applicable) for repair off-site.
- 10.7 The Company shall not be liable for any delay in providing the relevant Maintenance Service if in the Company's reasonable opinion it needs to remove the Goods (or part of the Goods, if applicable) for repair off-site and the Customer refuses this request.
- 10.8 The Company shall procure that its representatives shall, while at the Site, comply with the Customer's reasonable health and safety and security policies provided that these have been made available to its representatives in writing.
11. **PRICE, FEES AND PAYMENT**
- 11.1 The Price, as indicated in the Onboarding Form will be payable by the Customer to the Company in exchange for the provision of the Goods and performance of the Services by the Company for the Customer.
- 11.2 The payment terms for the Price are, in the absence of any specified payment terms to the contrary contained on the Onboarding Form, 30 calendar days from the date of the Company's invoice. However, the Company's payment terms of the Price may vary depending on the relevant Goods and/or Services being provided and are as set out below:
- 11.2.1 For Installation Services (unless otherwise agreed and specified to the contrary on the Onboarding Form):
- (a) 40% of the Price is payable as a non-refundable deposit payment with completion and signature of the Onboarding Form;
- (b) 40% of the Price is payable on delivery of materials at one of The Company's Warehouses or 5 calendar days prior to materials being delivered to the Site, whichever is sooner; and
- (c) 20% is payable as a completion payment once the Goods have been installed but before the Goods can go into live operation and/or the final documentation can be released.
- (d) If any of the aforementioned payment terms/stages are not met the Installation Services will be suspended and placed on hold until resolved to the complete satisfaction of the Company.
- (e) If the performance of the Installation Services and/or delivery is delayed for more than 60 Business Days past the estimated delivery date provided on the Onboarding Form, then the Company may invoice the amount payable under clause 11.2.1(b) immediately and the invoice will be payable in accordance with clause 11.2 of these Conditions.
- 11.2.2 For Maintenance Services (unless otherwise agreed and specified to the contrary on the Onboarding Form):
- (a) In consideration of the Company agreeing to perform the Maintenance Services, the Customer undertakes to pay for each year in advance (unless otherwise specified in the Onboarding Form) without deduction or set off (other than any discount expressly provided by the Company in the Onboarding Form), the Annual Service Fee in accordance with provisions of clause 11.2 of these Conditions.
- (b) The Annual Service Fee for the Maintenance Service Package shall be detailed on the Onboarding Form;
- (c) The Price of the Additional Maintenance Services shall be calculated in accordance with the Company's daily fee rates, as set out in the Rate Card;
- (d) The Company's daily fee rates for each individual are calculated on the basis of the working hours during a Business Day.
- (e) The Annual Service Fee shall be paid by direct debit to the Company's designated bank account to be received by the Company within 30 calendar days of the relevant invoice date. The Company reserves the right to charge the Customer an administration fee where payment is made by any other method than by direct debit, such charge to be calculated as 2.5% of the amount payable;
- (f) The Company shall be entitled to charge an overtime rate expressed as a percentage of the daily fee rate on a pro-rata basis for each day payable for any time worked by individuals whom it engages on the Services outside the Business Day. The Overtime rate percentage rate applicable from time to time will be as specified on the Rate Card;
- (g) The Company shall be entitled to charge the Customer the Ancillary Costs in connection with the Services and for the cost of services provided by third parties and required by the Company for the performance of the Services, and for the cost of any materials;
- (h) The Company reserves the right to increase the Annual Service Fee for the Maintenance Service Packages on an annual basis with effect from each anniversary of the Commencement Date at least by the percentage increase in the appropriate Contract Price Adjustment (CPA) indices published by the Lift & Escalator Industry Association (LEIA) for the respective time period (or failing such publication, the Retail Prices Index or such other index or adjustment as the Company may reasonably select);
- (i) Failure to adhere to any terms within these Conditions (regarding payment or otherwise) within the Agreement will result in the full Annual Service Fee for the current year becoming immediately due and payable. Failure or delay by the Company in enforcing or partially enforcing any payment terms shall not be construed as a waiver of any of its rights under this Agreement.
- (j) The Company shall provide 30 calendar days' notice in advance of any increase in the Annual Service Fee by the Company and if the Customer (who is not a Consumer) does not agree to that increase in fees the Customer (who is not a Consumer) may terminate the Agreement following that increase in Annual Service Fee before the end of the 30 calendar day notice period. Where the Customer is a Consumer the Customer may terminate the Agreement within 90 days from the date of the notice of the increase in the Annual Service Fee;
- (k) in relation to the charges for the Additional Maintenance Services, the Company shall invoice the Customer; and
- (l) The Customer shall pay each invoice submitted by the Company in accordance with clause 11.2 or in accordance with any credit terms agreed by the Company and confirmed in writing to the Customer;
- 11.2.3 for the standalone repair of a Lift:
- (a) the Company will issue an invoice for the Price to the Customer prior to the Company attending the Site to complete the standalone repair;
- (b) the Customer shall pay the invoice immediately upon receipt; and
- (c) the Company shall not be required to attend the Site to begin the repair unless or until payment has been made in accordance with clause 11.2 and 11.3 of these Conditions.
- 11.2.4 for SIM Cards (unless otherwise agreed and specified to the contrary on the Onboarding Form):
- (a) The Price shall be invoiced to the Customer once each month during the Term; and
- (b) the Customer shall pay each invoice submitted by the Company in accordance with clause 11.2 of these Conditions.
- 11.2.5 for LOLER and remote monitoring (unless otherwise agreed and specified to the contrary on the Onboarding Form):
- (a) the Company shall invoice the Customer for the Charges for LOLER and remote monitoring in advance at the frequency specified in the Onboarding Form; and
- (b) the Customer shall pay each invoice submitted by the Company in accordance with clause 11.2 of these Conditions.
- 11.2.6 for environmental clean (unless otherwise agreed and specified to the contrary on the Onboarding Form):
- (a) the Company shall invoice the Customer for the Charges for environmental clean in advance at the frequency specified in the Onboarding Form; and
- (b) the Customer shall pay each invoice submitted by the Company in accordance with clause 11.2 of these Conditions except for where the environmental clean has been provided ancillary to the standalone repair of a Lift, in which case, the payment terms at clause 11.2 of these Conditions shall apply.
- 11.2.7 for Call-out Services (unless otherwise agreed and specified to the contrary on the Onboarding Form):
- (a) the Company shall invoice the Customer immediately after the performance of the Services; and
- (b) the Customer shall pay each invoice submitted by the Company in accordance with clause 11.2 of these Conditions
- (c) The Cancellation Fee (if applicable) shall become payable immediately after the invoice has been submitted by the Company to the Customer.
- 11.2.8 for Ancillary Costs - The Customer will pay any Ancillary Costs that are incurred by the Company in the course of the provision of the Goods and/or Services. Such Ancillary costs shall be detailed on the Onboarding Form or otherwise agreed in writing between the Company and the Customer before being incurred. These costs shall be payable in accordance with clause 11.2 of these Conditions. The Company reserves the right to pass on the difference in any Ancillary Costs to the Customer should these increase between the date of the Onboarding Form and the Commencement Date.
- 11.3 Payment under this Agreement of the Price, for whatever Goods and/or Services is not deemed to have been made or received unless or until the funds have been received in full in cash or cleared funds (to a bank account nominated by the Company from time to time) without any set off deduction or counterclaim or other withholding by the Customer.
- 11.4 Without prejudice to any other rights or remedies of the Company, where the Customer fails to pay any sums to the Company on the due date (under this Agreement or any other arrangement), the Company shall be entitled to:
- 11.4.1 charge interest on any sums overdue under this Agreement from the due date for payment until payment is received at the rate of 8% per annum above the base rate of the Bank of England for the time being both before and after judgement. Such interest shall be calculated on a compound basis with daily rests; and
- 11.4.2 in addition to the interest to be applied in clause 11.4.1 of these Conditions the Company is entitled to claim and apply to the sums outstanding, compensation (a fixed sum costs) for the costs of recovery of the debt in the following terms and depending on the amount outstanding:
- (a) Less than £1,000 the Company may claim £40;
- (b) Between £1,000 but less than £10,000 the Company may claim £70;
- (c) Over £10,000 the Company may claim £100.
- 11.4.3 suspend the provision of the Services, recover the Goods and/or disconnect the SIM Cards and/or Devices from the Network until such time as all payments due, including all interest accrued, have been received in accordance with clause 11.3 of these Conditions.
- 11.5 The Company is entitled, and the Customer hereby grants to the Company an irrevocable licence in favour of the Company, in payment of the Price in full and in accordance with these Conditions, to enter the Site at any time where the Goods may be for the purposes of and to dismantle, detach, remove and/or collect the Goods. This right shall not be obstructed, fettered, or prevented merely by the fact that that Goods may have been fixed to other property or installed. The Company will uninstall and remove the Goods with due care and attention, arising from the removal of the Goods, or any damage or Losses, including any Losses, which have had been uninstalled by the Company. Where the Customer is not legally able to grant a licence in this way to the Company for these purposes, the Customer undertakes to procure unfettered access for the Company to the Site for the purposes of facilitating the Company's exercise of its rights as outlined in this clause 11.5.
- 11.6 If the Company offers any credit facilities, it reserves the right to set, withdraw and/or alter, the credit limits at any time. Where the Customer is not a Consumer, the Company reserves the right to withdraw or reduce the credit facilities and to pay on notice from the Company that the credit facility has been withdrawn or reduced. The Company will not offer any credit facilities to any Customers who are small partners or sole traders.
- 11.7 Where the reasonable costs of the Company in recovering the sums overdue are not met by the fixed sums above the Company reserves the right to claim the sum equivalent to the difference between the fixed sums above and the reasonable costs incurred by the Company in recovering the sums overdue.
- 11.8 In addition to the above rights, in order to aid the Company's recovering of all amounts due and owing to the Company by the Customer, the Customer is hereby on notice that once any sums exceed the due date for payment the sum owing will automatically crystallise and become recoverable as a debt.
- 11.9 Prices are based upon materials and wage rates ruling at the date of the Onboarding Form and will be subject to Value Added Tax and/or any other Government Tax or Duty that is applicable at the date of the Onboarding Form.
- 11.10 Material and labour costs may fluctuate due to macro-economic impacts and changes that cannot be foreseen or planned for by the Company. The Company reserves the right to pass on, to the Customer, any material and labour cost difference that arises after the date of the Onboarding Form caused by these impacts at any given point throughout the Term. Where the Customer is a Consumer, and subject to clause 11.16 of these Conditions, the Company will notify the Customer of any material increase in the Price and the Company will obtain the Customer's prior agreement to the increase. The Company agrees that any Price increase that has not been notified in this way to a Consumer who is a Consumer will not be effective and the Consumer will only be charged the Price that originally appeared in the Onboarding Form.
- 11.11 Unless specifically stated to the contrary in writing the Price in the Onboarding Form is based on the assumption that all work will be carried out during a Business Day.
- 11.12 If it is agreed between the Company and the Customer that overtime is required during hours that are not within a Business Day in order to complete the Goods and/or Services as outlined in the Onboarding Form, then there will be additional costs payable by the Customer which will be agreed before the commencement of the Services.
- 11.13 Unless expressly stated otherwise, the Price does not include the provision of any scaffolding, temporary power supplies or major structural, construction and/or building works and additional attendances which may be required. If these are required, then the cost of any and all of these elements will become due payable by Customer in addition to the Price.
- 11.14 The Company reserves the right to charge the difference in Ancillary Costs to the Customer (but not to those Customers who are Consumers) should such Ancillary Costs increase between the date of the Onboarding Form or other written communication where Ancillary Costs are agreed and the Commencement Date. Where the Customer is a Consumer, the Company will notify the Customer of any material increase in these costs and seek the Customer's prior agreement to the payment of the increase in Ancillary Costs.
- 11.15 If the Company's Price is based upon details provided by the Customer (where the Company has not undertaken a survey) or inconsistency that later arises from a detailed survey after completion of the Services or the Price has been given and which give rise to changes in the Specification will incur additional charges for the inconsistencies that later arise. Where the Customer is a Consumer, the Company will notify the Customer of any material increase in these costs and seek the Customer's prior agreement to the payment of the increase in Price.
- 11.16 Where the Customer is a Consumer and the Company have had to increase the Price in accordance with any provisions of section 11 of these Conditions:
- 11.16.1 the Consumer has the right to serve notice of termination on the Company without incurring any additional fees, costs and/or expenses over and above those that the Company has already incurred up to the date of the notice the Consumer has served on the Company informing them that they do not want to proceed with the Installation Services or Maintenance Services; and
- 11.16.2 any price increase made by the Company, once the Agreement has been formed, will be a fair and reasonable increase and will be calculated to so as to cover only the additional costs expenses and/or increases that the Company has incurred or will incur in performing the Agreement for the Goods.
- 11.17 If the Customer fails to make any payment due to the Company under and in accordance with the Agreement, the Customer shall from that point on cease to be eligible for any discounts of the Annual Service Fee that may be offered by the Company.
- 11.18 Where interim applications for payment are required, payments are required no later than 30 calendar days from date of the invoice, or if self-billing agreements are in place no later than 30 calendar days from date of application for payment.
- 11.19 Unless stated otherwise, the Maintenance Service Agreement or any repair quotation does not include any allowance for contingencies, provisional sums or prime cost sums. Should the scope of Services prove to be affected by unknown factors which were not reasonably anticipated at the time of quotation (e.g. asbestos or other matters which can only be found by an intrusive survey when building fabric is opened-up to undertake the works) the Company reserves the right to charge for all additional costs expenses, fines, charges, penalties and/or any inspection Fees incurred.
- 11.20 Price Variation
- 11.20.1 Where the Customer is a Consumer, these clauses 11.20.2 to 11.20.5 (inclusive) are subject always to clause 11.16 of these Conditions.
- 11.20.2 Prices are quoted on the understanding that installation will be completed within the period specified by
- the Customer and evidenced on the Onboarding Form. Should completion be delayed for any reason the Company reserves the right to adjust the Price in accordance with any increases implemented by the Company between the date of the Onboarding Form and completion.
- 11.20.3 All Prices will be subject to further variation in respect of any additional costs arising in connection with any statute, regulations or orders issued by any Government department or other duly constituted authority.
- 11.20.4 No variation in the Goods will be commenced unless Customer agrees in advance, in writing, to a written estimate of the costs of any variation. If the cost of undertaking such variations cannot be estimated in advance, then if the request to perform any variations is accepted by the Company it will be carried out at the Company's standard rates contained in the Rate Card.
- 11.20.5 Any variation of price referred to above will be invoiced as soon as the amount has been calculated and is payable immediately and the provisions of clause 11.4 of these Conditions in respect of interest payable on overdue accounts will apply to any payments due under this clause 11.20.
- 11.21 Where a payment schedule or the Company's standard payment terms have been varied invoices are payable immediately.
- 11.22 The SIM Card Charge shall be agreed with the Customer on the Commencement Date. However, the SIM Card Charge may be amended or altered by the Company from time to time on notice to the Customer.
- 11.23 If the Company is required to bar or disconnect any SIM Cards/Devices for non-payment of the Price, the lifting of any bar and/or the reconnection of such SIM Cards/Devices will be subject to a one-off administration charge and removal charges in each event.
- 11.24 The Customer must inform the Company in writing within 7 days of the invoice date if any invoice discrepancy is found. The Customer must still pay the disputed sum as and when it falls due notwithstanding the dispute still to be resolved. The Company may in its absolute discretion disapply the application of clauses 11.4.1 and 11.4.2 of these Conditions on any disputed sums if the dispute was determined as valid once resolved but only in respect of the amount validly disputed and not the whole amount due.
- 11.25 Notwithstanding any other terms of the Agreement, the Company shall only be required to give the Customer (who is not a Consumer) as much notice as is reasonable practical for any changes to the Services, the SIM Card Charge or other charges or costs which are required as a consequence of any changes proposed by any third party (including but not limited to any Network Operator, manufacturer, supplier or regulatory body), or from changes to the law.
- 11.26 The Company reserves the right to vary the SIM Card Charge and other costs in line with any network changes in supply pricing.
12. **GENERAL LIABILITY**
- 12.1 The limits and exclusions in this section 12 reflect the insurance cover the Company has been able to arrange and the Price payable by the Customer and the Customer acknowledge and agrees that the limitations and exclusions are reasonable in all the circumstances and that they (the Customer) are responsible for making its own arrangements for the insurance of any excess liability.
- 12.2 References to liability in this section 12 include every kind of liability arising under or in connection with the Agreement including liability in contract, tort (including negligence), misrepresentation, common law, restitution or otherwise and the caps and limitations and exclusion of liability in this Agreement shall be applied collectively as a whole to all of the kinds of liability.
- 12.3 Nothing in the Agreement limits any liability for:
- 12.3.1 death or personal injury caused by negligence (or where the Customer is a Consumer death or personal injury however caused);
- 12.3.2 fraud or fraudulent misrepresentation;
- 12.3.3 breach of the terms implied by section 12 of the Sale of Goods Act 1979;
- 12.3.4 defective products under the Consumer Protection Act 1987; or
- 12.3.5 any liability that legally cannot be limited.
- 12.4 Subject to clause 12.3, the Company's total liability to the Customer under the Agreement shall not exceed £500,000 in aggregate for the Term or in respect of the Maintenance Services Agreement 100% of the total Price for the Maintenance Services paid by the Customer in the 12 month period immediately preceding the date that a claim is made.
- 12.5 Subject to clause 12.3, the following types of loss are wholly excluded:
- 12.5.1 loss of profits;
- 12.5.2 loss of sales or business;
- 12.5.3 loss of rent;
- 12.5.4 loss of revenue;
- 12.5.5 loss of business opportunity;
- 12.5.6 damages representing or calculated by reference to rent;
- 12.5.7 damages represented or calculated by reference to diminution in the value of the building or of any property or accommodation;
- 12.5.8 payment or reimbursement for payments to third parties;
- 12.5.9 economic or pecuniary loss or damage whatsoever or howsoever occurring;
- 12.5.10 loss of agreements or contracts;
- 12.5.11 loss of anticipated savings;
- 12.5.12 loss of use or corruption of software, data or information;
- 12.5.13 loss of or damage to goodwill; and
- 12.5.14 indirect or consequential loss.
- 12.6 This section 12 shall survive termination of the Agreement.
- 12.7 Whilst the Company shall pass on any warranty or guarantee as to the quality of Goods sold from the relevant manufacturer, the Company does not manufacture any of the Goods and as such the Company will not be liable for any loss in relation to the manufactured quality of the Goods.
- 12.8 The Company will not be liable for:
- 12.8.1 and the Customer shall indemnify and hold the Company harmless against any claim for Losses:
- (a) arising from the misuse or use or operation (other than by the Company) the negligence (including the use of any part of the Goods otherwise than for normal use or in accordance with the with the Company's operating instructions and manuals) by or on the part of the Customer, its employees, agents, subcontractors or assignees;
- (b) suffered or incurred by the Company in connection with any claim made against the Company in relation to any harm to persons or damage to property or loss of income is caused by any fault or non-compliance in the Dedicated Power Supply or any other failure on behalf of the Customer to meet their obligations under the Agreement;
- 12.8.2 and the Customer shall indemnify and hold the Company harmless against any claim made in relation to any of the Goods or Services made by the owner of the Site, where the owner is not the Customer.
- 12.8.3 the acts or omissions of the Network Operator unless such other providers have been specifically engaged by the Company as subcontractors or assignees in respect of performing the Company's obligations under this Agreement.
- 12.8.4 any costs incurred by the Customer if any replacement SIM card imposes a change of telephone number for the Devices or associated connected equipment.
- 12.8.5 any loss resulting from any delay in supplying the SIM Cards/Devices by the Network Operator.
- 12.8.6 any loss or damage resulting from or in relation to the power supply on the other side of the isolator to the Dedicated Power Supply.
- 12.8.7 any costs, expenses or Losses incurred by the Customer as a result of any delay caused by the Customer's failure to provide the Dedicated Power Supply.
- 12.8.8 and the Customer shall pay to remedy or repair any damage to the Goods or the Site arising from the proper performance by the Company of any examination or maintenance or other work undertaken at the request of the Customer or a competent person authorised by the Customer and the Customer shall indemnify the Company against all Losses. This indemnity shall survive termination of the Agreement and is not subject to any limitations or exclusions within that may be contained in the Agreement.
- 12.8.9 The Company will be responsible to repair, replace, or renew physical damage caused to the Customer's property to the extent that such damage is caused by the Company's negligence but not otherwise.
- 12.8.10 Except as set out in these Conditions, all warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from the Agreement.
- 12.8.11 The Customer and the Company agree that any obligation to perform the Services shall be a warranty only entitling the Customer to the exclusive remedy, subject to the provisions of this clause 12.3 of these Conditions, of claiming damages.

12.8.12 The parties are independent contractors and nothing in this Agreement and no action taken by the parties pursuant to this Agreement shall constitute, or be deemed to constitute, between the parties a partnership, association, joint venture or other co-operative entity.

13. TERM AND TERMINATION

13.8.1 The Term and termination provisions may vary depending on the Goods and Services being provided and the Service specific term and termination provisions are set out below and will be effective unless otherwise varied in accordance with Special Terms to the contrary.

Term of Installation Services

- 13.1 Orders cannot be cancelled by Customers who are not Consumers, after completion of the Onboarding Form by the Customer, unless agreed by the Company in writing. Cancellation by a Customer will incur charges that will be applied as a minimum of 40% of the Price of the Installation Services and may be the full cost of the Goods if they have been specifically manufactured for the Customer and for the Site.
- 13.2 Subject to clause 13.5 of these Conditions, the Consumer will have the right to cancel the orders under the Agreement within 14 days from the date that the details have been agreed as indicated by the date of the last signature on the Onboarding Form ("Cancellation Period") without incurring any costs, expenses or liability to the Company.
- 13.3 The Customer does not have the right to cancel the orders under the Agreement where:
 - 13.3.1 the Goods have been made to the Customer's specifications especially for the Customer;
 - 13.3.2 the Customer has requested a visit from the Company to carry out urgent repairs or maintenance and the Consumer has completed, signed and returned the PACE Group start guidance and form;
- 13.4 Where the Customer requests that the Services commence during the Cancellation Period by completing, signing and returning the Express Start Form:
 - 13.4.1 any cancellation following that will incur reasonable costs and expenses for the Customer;
 - 13.4.2 where the Services have been completed by the Company the Customer will no longer have the right to cancel the Goods and/or Services under the Agreement; and
 - 13.4.3 where the Company have commenced the Services, but they are not yet completed the Customer will be responsible for paying for that part of the Services that have been completed before the Company received the Customer's decision to cancel the order under the Agreement. The amount of the Price to be paid by the Customer will be calculated on a pro-rated basis with reference to the Price quoted for the completed works.

Term of Maintenance Service

- 13.5 The Maintenance Services shall commence on the Commencement Date specified as such on the Onboarding Form and continue for the Initial Period unless terminated earlier in accordance with clause 13.7 or 13.8. On the expiry of the Initial Term this Agreement automatically renews for 5 years at a time on a rolling basis ("Extended Term"). At the end of the Initial Term and at the end of each Extended Term either party may give written notice of termination to the other party, not later than 3 months before the end of the Initial Term or the relevant Extended Term. Upon service of the 3 months' notice to terminate this Agreement, shall end on the expiry of that notice and at the end of the Initial Term or the then current Extended Term, as applicable.
- 13.6 The Company reserves the right at all time to terminate this Agreement on 30 calendar days notice to the Customer at any time.

Termination of the Services

- 13.7 Without affecting any other right or remedy available to it, the Company may terminate this Agreement with immediate effect by giving written notice to the Customer if:
 - 13.7.1 the Customer fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 10 days after being notified in writing to make such payment;
 - 13.7.2 the Customer commits a material breach of any terms of this Agreement and (if such breach is remediable) fails to remedy that breach within a period of 5 Business Days after being notified in writing to do so;
 - 13.7.3 the Customer repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with having the intention or ability to give effect to the terms of this Agreement;
- 13.7.4 the Customer experiences an Insolvency Event;
- 13.7.5 Without affecting any other right or remedy available to it, the Company may terminate this Agreement with immediate effect by giving written notice to the Customer if, in relation to the Maintenance Services:
 - 13.7.6 the Company reasonably believes that the Customer has permitted another maintenance service provider to inspect, repair, adjust or tamper with the Goods without the prior written consent of the Company; or
 - 13.7.7 if the Company reasonably determines that the Goods can no longer be maintained in Good Working Order by the provision of spare parts or the Goods are damaged beyond economic repair otherwise than through the Company's fault;
- 13.7.8 For the purposes of Clause 13.8.2, material breach means a breach of any of the obligations set out in clauses 9.1.1 to 9.1.9 of these Conditions.
- 13.7.9 Should any contract partner or participant is listed with MK Denial, should be recipient be listed in MK Denial no valid contract shall be deemed to have been formed.

Consequences of Termination of Services

- 13.8 On termination or expiry of the Maintenance Services:
 - 13.8.1 the Customer shall immediately pay to the Company all of the Company's outstanding unpaid invoices and interest and, in respect of the Services supplied but for which no invoice has been submitted, the Company may submit an invoice, which shall be payable immediately on receipt; and
 - 13.8.2 any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
- 13.8.3 Where the notice of termination has been served by the Customer prior to the expiry of the Initial Period or the then current Extended Term the Customer will pay the Maintenance Termination Fee. The Maintenance Termination Fee will be calculated as a fraction of the correlating percentage of the whole Price payable for the Maintenance Services over the period Initial Period or Extended Period. Such percentage of the whole Price (excluding VAT) shall correlate pro-rata with the percentage of the time period of the Agreement left to run were the Customer not have issued a notice to terminate the Agreement early. The fraction of the sum calculated using the prorated percentage as outlined, will be two thirds.

For example, if there are 3 years left to run on the Initial Period or then current Extended Term that presents 60% of the time and where the Price for the whole of the Initial Period or Extended Term is £10,000 the Customer must pay two thirds of 60% of £10,000, i.e. 60% of £10,000 = 0.60 x £10,000 = £6,000 and 2/3 of £6,000 = £4,000 plus VAT.

- 13.8.4 The Customer agrees and acknowledges that the Maintenance Termination Fee is a fair and reasonable sum calculated so as to provide the Company with compensation for loss of earnings that it will suffer where the Customer terminates the Maintenance Services early. The Customer acknowledges and agrees that in order to ensure that the Company can provide the Maintenance Services in a responsive and to the standard required the Company will need to engage and maintain certain resources (human and capital) during the relevant periods and that the Customer's early termination would render this resources redundant but that the Company may reasonably have already committed to the cost of them for the prescribed period.
- 13.8.5 The Maintenance Termination Fee will be invoiced by the Company and payment of that sum will be subject to the payment terms in these Conditions at section 11.

Term and Minimum Period of SIM Provision Contracts

- 13.9 Subject to the provisions of clauses 13.7 and 13.8 of these Conditions, this Agreement will, so far as it relates to SIM and GMS Services last for the Minimum Term. Each additional sim card/device connected to the Network under this Agreement will be treated separately and must be connected for the Minimum Period.

Termination of SIM Provision Contracts

- 13.10 The Customer may and a SIM Provision Contract by giving the Company 30 calendar days written notice ("Disconnection Notice") in accordance with the notice provisions in clause 17. The Disconnection Notice will start on the date the notice is received and acknowledged by the Company. At the end of the notice period the Company will procure the disconnection of the SIM Cards/Devices from the Network. Should the Customer wish to cancel disconnection within the 30-day notice period, the Customer will be charged £10.00 per sim for re-connection.
- 13.10.1 In the event that the Customer gives a Disconnection Notice to take effect, and resulting in SIM Card/Devices disconnections, prior to the expiry of the Minimum Period for the particular SIM Card/Devices concerned, the Customer will pay to the Company any applicable Termination Fee together with all other applicable Charges.
- 13.10.2 Either party may terminate this Agreement with immediate effect, if:
 - 13.10.3 the other party is in material breach, and if the breach is capable of remedy the party in breach shall have failed to remedy the breach within thirty (30) days of written notice specifying the breach and requiring its remedy, or the breach is not capable of remedy; or

- (a) bankruptcy or insolvency proceedings are brought against the other party, or if an arrangement with creditors is made, or a receiver or administrator is appointed over any of the other party's assets, or the other party goes into liquidation.
- 13.10.4 The Company may terminate this Agreement if the Network is no longer in operation for any reason.
- 13.10.5 Upon the expiry of any termination notice or otherwise upon the termination of this Agreement, the Company will procure the disconnection of the relevant SIM Cards/Devices, (and any other Device) from the Network and the Customer will pay to the Company any applicable Termination Fee, together with all other charges levied by the Network Operator and/or the Company.
- 13.10.6 The Customer agrees to advise the Company, in writing, no less than 30 calendar days prior to the end of each Minimum Period should they wish to discontinue the Sim Card Service.
14. DATA PROTECTION CONFIDENTIALITY AND DISCLOSURE OF INFORMATION
 - 14.1 Each party agrees that it shall not at any time disclose to any third party any proprietary information and/or any information obtained from the other in connection with this Agreement (including for the avoidance of doubt details of the Customer's employees) which is reasonably identified by either party as commercially confidential, or which is obviously confidential in nature. For the purposes of this clause 'third party' will not include a party's employees, contractors and agents as may need to know the same for the purposes of the implementation of this Agreement and who agree to be bound by the provisions of this clause.
 - 14.1.1 The Company may disclose the Customer's confidential and/or personal information to:
 - 14.1.2 any employee of the Company;
 - 14.1.3 third parties if the Company:
 - (a) sells or buys any business or assets;
 - (b) or substantially all of its assets, are acquired by a third party, in which case such confidential and/or personal information held by it will be one of the transferred assets; or
 - (c) under a duty to disclose the Customer's personal and/or confidential information in order to comply with a legal obligation. This includes exchanging information with other companies for the purpose of fraud protection and credit risk reduction.
 - 14.2 The obligations in Clause 14.1 shall not apply to any material or information which is in the public domain (other than as a result of a breach of this Agreement); or is already known to the receiving party; or is lawfully received from a third party; and/or is ordered to be disclosed by any court or other tribunal or regulatory authority of competent jurisdiction.
 - 14.3 The Customer agrees that the Company may search the files of credit reference agencies, which will keep a record of that search. The data that search, the Company may also carry out identity and fraud checks and fraud prevention agencies. Details of how the Customer conducts its account may also be disclosed to those agencies.
 - 14.4 The Customer authorises the Company to use and disclose, in the UK and abroad, information about the Customer and its use of the Services and how the Customer conducts its account for the purposes of operating its account and providing the Customer with the Services or as required under law to the Company's associated companies, partners or agents, any telecommunications company, debt collection agency or credit reference agency and fraud prevention agency.
 - 14.5 The Company may also use information provided by the Customer for marketing purposes including contacting the Customer by phone, post, SIM Card, e-mail or other means in relation to products, services and offers which the Company thinks might be of interest to the Customer. If the Customer does not wish its details to be used for marketing purposes it may notify the Company accordingly.
15. CONSTRUCTION CONTRACT PROVISIONS

Site Clause

- 15.1 The Company reserves the right to charge the Customer a minimum of £600 for the costs of an aborted or second survey visit to Site after acceptance of Onboarding Form or when the Site Ready requirements have not been met.
- 15.2 The minimum amount specified above in clause 15.1 of these Conditions will not apply to a Customer who is a Consumer and the Price to be paid for any aborted or second survey visit will be as agreed between Consumer and the Company at the time.
- Delay in Delivery or Completion
 - 15.3 The Company will not be liable for any delay, or any consequence of any delay, in the manufacture or delivery of any Goods or the completion of the Installation Services if such delay is due to any cause whatsoever beyond the Company's reasonable control.
 - 15.4 The Company will not be liable for any delay in installation resulting from the Customer's failure to ensure that the Dedicated Power Supply is fully operational.
 - 15.5 If any such delay occurs then (unless the cause frustrates or renders impossible or illegal the performance of this Agreement) the Company's period for completion of the work will be extended by any period as the Company may reasonably require to complete the performance of its obligations.
 - 15.6 Should the completion be delayed or stopped by the Customer during the installation process due to any reason the Company reserves the right to invoice 75% of the outstanding amount specified on the Onboarding Form.
 - 15.7 If the Company's performance of the Services are disrupted by circumstances beyond the Company's control or the Company's personnel is subsequently unable to get access to the Site on the programmed dates, in addition to any charges for disruption and delay, the Company will charge an administration fee of at least £300 plus VAT for rearrangement of the performance of the Services.
 - 15.8 If delays incur the need for the Company to store Goods off Site at the Company's own premises a charge of at least £300 plus VAT per week will be charged. If off-site storage at a third party company's premises is required, the Company will charge the Customer that third party company's costs charged to the Company plus a 50% of those charges in respect of the Company's handling, administration and transport.
- 15.9 Where the Installation Services connects to another building engineering service, e.g. mains power supplies, telephone lines, fire alarm systems and BMS systems the Installation commences from the local connection point into the Lift installation and the Company takes no responsibility for the inadequacy or inoperative condition of such building engineering services.
- 15.10 Should such interconnected installations cause delay and disruption to the Goods, or create additional work, the Company reserves the right to charge for additional costs incurred.
- 15.11 Generally, collateral warranties will not be provided by the Company. Any Collateral Warranties that may be provided are strictly subject to prior written agreement. The terms and wording or any collateral warranties provided by the Company will be subject to negotiation and agreement by the Company's commercial department and may be subject to extra charges.
- 15.12 The Company reserves the right to sub-contract all or any part of this Agreement.

- Penalty Clauses, Retention, MCD
 - 15.13 Penalty clauses on the Customer's orders or terms of agreements cannot be accepted. Retention amounts are not accepted. Main Contractors Discount is not accepted or applicable to the Price or to this Agreement.
16. DISPUTE RESOLUTION
 - 16.1 Any dispute which may arise between the parties concerning these Conditions, the Scope of Services or the Agreement shall be determined as provided in this clause 16.
 - 16.2 For the purpose of this clause 16, a dispute shall be deemed to have arisen when one party serves on the other a notice in writing stating the nature of the dispute.
 - 16.3 Unless and until this Agreement has been terminated in accordance with clause 13, the Company shall in every case continue to provide the Services with all due diligence regardless of the nature of the dispute and the Customer shall continue to make payments in accordance with clause 11.1.
 - 16.4 The parties agree to use their best endeavours to resolve the dispute.
 - 16.5 Failing resolution of the dispute within 5 Business Days:
 - 16.5.1 from the date of the notice issued under clause 16.2 of these Conditions, the parties will escalate the dispute with written details of the dispute from both parties to the chief executive officers or equivalent of both parties who will have a further 5 Business Days, from the date of the escalation, to resolve the dispute;
 - 16.5.2 from the date of the date of the escalation to the parties' chief executive officers or equivalents, the parties will identify and appoint the appropriate expert to determine the dispute on their behalf. The qualifications and expertise of the expert to be appointed will depend on the nature of the dispute and where the parties are unable to agree the type or identity of the expert to be appointed under this clause the matter of appointment will be referred to the president for the time being of the Law Society in England and Wales;
 - 16.6 The expert appointed by the parties will be provided (within 5 Business Days of their appointment) with written statements from each party setting out their respective positions together with any supporting evidence they may have. The expert will have 10 Business Days from the date of their receipt of the written evidence provided to them by the parties to provide a determination of the dispute. The decision of the expert will be final and binding on the parties save for error as to fact or law and the determination will be evidenced in writing and signed by both of the parties.

17. NOTICES

- 17.1 Whenever under the provisions of these Conditions any notice or communication is required to be given or sent by any one party to another, such notice or communication will be deemed to have been given or made either when delivered personally if properly addressed; and/or if posted by first class mail within two Business Days of posting. For avoidance of doubt emails are not an accepted form of notice or communication for the Customer. For all notices sent to the Company, the Company will only be deemed to have received the notice once it sends the Customer a confirmatory email to this effect.
- 17.2 The Company will endeavour to send a confirmatory email as soon as it is reasonably practicable to do so. For the avoidance of doubt notices will only be actioned during Normal Working Hours on Business Days
- 17.3 Such communication sent to the Customer shall be sent to the address of the Customer as set out in the Onboarding Form or to such other address as may from time to time be communicated in writing by the Customer to the Company. Each communication shall be marked for the attention of the relevant person. The Customer shall send all notices to the Company at the address specified on the Onboarding Form.
18. MISCELLANEOUS
 - 18.1 These Conditions exclude any third-party rights under the Contracts (Rights of Third Parties) Act and no third party shall have the right to enforce the terms to this Agreement. Where any rights of any third party may be acquired under this Agreement those rights may be varied or extinguished by the Customer and the Company without the agreement of such third party.
 - 18.2 The Agreement formed under these Conditions shall not be assigned by the Customer without the prior written authority and consent of the Company.
 - 18.3 The Company may assign, subcontract, transfer, novate or otherwise part and/or deal with the ownership and rights of the Agreement formed under these Conditions in its absolute discretion.
 - 18.4 No variation, extension, omission or cancellation of the terms of these Conditions and or the Onboarding Form will be binding on the parties unless in writing and signed by the parties or their respective authorised representatives.
 - 18.5 A waiver of any right or remedy of the Company under these Conditions shall only be effective if made in writing and shall not be deemed to be a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not waive that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy.
 - 18.6 Through the Term and for one year following its termination the Customer shall not employ Company staff.
 - 18.7 The Company cannot guarantee coverage or quality of service in particular areas/locations as the Company has no control over this. However, the Customer may request estimated network coverage from the Company.
 - 18.8 If any provision of the Agreement is void or unenforceable, the other provisions of the Agreement shall remain in force.
 - 18.9 Failure by either party to enforce or exercise any right under the Agreement shall not amount to a waiver or bar to enforcement of that right.
 - 18.10 Neither party shall be liable for any delay in performing any of its obligations hereunder if such delay is caused by an Event of Force Majeure. The party so delayed shall be entitled to a reasonable extension of time for the performance of such obligations. Where the Company anticipates such delay will continue for more than 30 calendar days then either party shall be entitled to terminate this Agreement free of penalty or payment of damages, or suffering any form of redress from the other party to the Agreement.
 - 18.10.1 Neither party to this Agreement shall be deemed in default or liable to the other party for any matter whatsoever or for any delays in performance or from failure to perform or comply with the terms of this Agreement that is caused by any Event of Force Majeure.
 - 18.10.2 This Agreement shall in all respects be interpreted subject to and in accordance with the laws of England and Wales and the parties submit exclusively to the jurisdiction of the English Courts

Appendix 1 MAINTENANCE SERVICE PACKAGES

SERVICE	VALUE	PRIME	PREMIUM
Planned Preventative Maintenance Visits	X	X	X
Call outs		X	X
Up to £250 for minor repairs included annually		X	
All minor repairs included			X

1. The Frequency of the Planned Preventative Maintenance visits will be detailed on the Onboarding Form.
2. For the avoidance of doubt, minor repairs exclude the following:
 - 2.1 damage to the Lift as a result of misuse and/or abuse of the Lift including but not limited to:
 - 2.1.1 vandalism;
 - 2.1.2 fire;
 - 2.1.3 Force Majeure Event.
 - 2.2 damage to the Lift as a result of the weather;
 - 2.3 upgrades to the Lift or other Goods;
 - 2.4 replacement of obsolete items;
 - 2.5 asbestos; and
 - 2.6 Any major components to be determined in the absolute discretion of the Company, including, but not limited to:
 - 2.6.1 control panel;
 - 2.6.2 ropes;
 - 2.6.3 pulleys;
 - 2.6.4 machine components; and
 - 2.6.5 brakes.