

## GENERAL TERMS AND CONDITIONS

### 1. INTERPRETATION

1.1 "**AUTHORISED REPRESENTATIVE**" means (a) in relation to **BRITANNIC**, any appointed manager or director; and (b) in relation to the **CUSTOMER**, any person signing the **CONTRACT** or communicating with **BRITANNIC** regarding a **CONTRACT** on the **CUSTOMER's** behalf.

"**BRITANNIC**" means **BRITANNIC** Technologies Ltd of Britannic House, Merrow Business Park, Guildford, Surrey, GU4 7WA Registered Number 2097097.

"**BRITANNIC WEBSITE**" means [www.btl.net.co.uk](http://www.btl.net.co.uk).

"**BUSINESS DAY**" means any Monday to Friday excluding English public, bank and statutory holidays.

"**CHARGES**" means all charges and amounts payable for particular **GOODS** or **SERVICES** as set out in a **CONTRACT**, together with any other monies owing under the **CONTRACT**.

"**COMPANY**" is a registered company in England and Wales or Scotland or the equivalent recognised body within the country or countries where the contract was signed.

"**CONDITIONS**" means these standard general terms and conditions of sale and supply, as modified from time to time.

"**CONFIDENTIAL INFORMATION**" has the meaning given to it in Clause 14.1.

"**CONTRACT**" means these **CONDITIONS**, the applicable **PRODUCT SCHEDULE(s)** for the **GOODS** and/or **SERVICES** ordered by the **CUSTOMER** and the **CUSTOMER ORDER** (including any special conditions on such **CUSTOMER ORDER**).

"**CONTRACT TERM**" means the **INITIAL TERM** of the **CONTRACT** together with any subsequent renewal terms in accordance with Clause 3.2.

"**CUSTOMER**" means the **COMPANY, PARTNERSHIP** or other legal entity specified on a **CUSTOMER ORDER**.

"**CUSTOMER ORDER**" means a written request by the **CUSTOMER** for **GOODS** and/or **SERVICES** submitted on an **ORDER FORM** and accepted by **BRITANNIC** in accordance with and subject to these **CONDITIONS**.

"**CUSTOMER SITE**" means the location(s) owned or occupied by the **CUSTOMER** or its end-users to which **GOODS** and/or **SERVICES** will be delivered by **BRITANNIC**.

"**EQUIPMENT**" means any equipment, device, software or other tangible material owned by **BRITANNIC** or its **SUPPLIERS** and supplied by **BRITANNIC** to the **CUSTOMER** for use as part of a **SERVICE** or under any **CONTRACT**.

"**EVENT OF INSOLVENCY**" shall mean in relation to a party: (a) a liquidator, provisional liquidator, receiver, administrative receiver, administrator or similar officer is appointed over any of the assets or business of that party; (b) any reorganisation, moratorium or other administration with or for the benefit of that party's creditors generally or any class of its creditors; (c) that party adopts a resolution or proposes to adopt a resolution to wind itself up or becomes unable to pay its debts as and when they fall due or become deemed to become unable to pay its debts as and when they fall due within the meaning of section 123 of the Insolvency Act 1986; (d) any similar or analogous event happens under the national, state or local laws of any other country.

**"FORCE MAJEURE EVENT"** means any cause beyond a party's reasonable control, including (but not limited to):

(a) acts of God or nature, explosion, flood, tempest, other atmospheric conditions, fire or any accident; (b) war, threat of war, terrorist acts or threat of terrorist acts, sabotage, insurrection, civil disturbance or requisition; (c) acts, restrictions, regulations, byelaws, prohibitions, orders or measures of any kind on the part of any **REGULATOR**, governmental, parliamentary, local, judicial or equivalent authority; (d) failure of any telecommunications network not under the control of **BRITANNIC**; (e) import or export regulations or embargoes; (f) strikes, lock-outs or other industrial actions or trade disputes (whether involving its employees or those of a third party).

**"GO-LIVE DATE"** in relation to a **CONTRACT** means the earlier of the date on which **BRITANNIC** notifies the **CUSTOMER** that the **GOODS** and/or **SERVICES** to be provided under that **CONTRACT** are ready and the date on which the **CUSTOMER** first uses such **GOODS** or **SERVICES**.

**"GOODS"** means such hardware or other product specified in a **CUSTOMER ORDER** which **BRITANNIC** has agreed to sell to the **CUSTOMER** in accordance with a **CONTRACT**.

**"INITIAL TERM"** means the initial term of a **CONTRACT** as specified in the **CUSTOMER ORDER**, as calculated from the **GO-LIVE DATE**.

**"MARKS"** has the meaning given to it in Clause 14.3.

**"NETWORK PROVIDER"** means British Telecommunications plc or any other provider of network or communications services which is relevant to performance of a **CONTRACT**, whether provided directly or indirectly to **BRITANNIC**, the **CUSTOMER** or otherwise.

**"ORDER FORM"** means a **BRITANNIC**-approved order form.

**"PARTNERSHIP"** is a partnership in England and Wales or Scotland, or the equivalent recognised body within the country or countries where the contract was signed.

**"PRODUCT SCHEDULE"** means the additional terms and conditions for the provision of specific **GOODS** and/or **SERVICES** ordered by the **CUSTOMER** as referred to in a **CUSTOMER ORDER**.

**"REGULATOR"** means OFCOM, ICSTIS, the Office of the Information Commissioner and/or any other applicable regulatory and/or law enforcement body in any territory worldwide.

**"SERVICES"** means such services (whether installation, software development, project management, consultancy, support services (including repair, replacement, alteration or removal), network services, managed services or other services) specified in a **CUSTOMER ORDER** which **BRITANNIC** has agreed to supply in accordance with a **CONTRACT**.

**"SUPPLIER"** means a third party licensor or supplier to **BRITANNIC** in connection with any **GOODS** or **SERVICES** to be provided to the **CUSTOMER** under any **CONTRACT**.

**"TAXES"** means any tax, surcharge, fee, duty, VAT (or other sales tax), excise or similar charge or liability, at the then-prevailing rate including without limitation any import tax and duties if **GOODS** or **EQUIPMENT** are to be supplied outside the United Kingdom.

**"WORKING HOURS"** means 9am to 5pm on any **BUSINESS DAY**.

**"WRITING"** means by e-mail sent by an **AUTHORISED REPRESENTATIVE** of **BRITANNIC** or by fax, letter or other comparable means of communication.

**"YEAR"** means a period of 12 (twelve) months commencing from the **GO-LIVE DATE** or any anniversary of that date.

1.2 Any reference to a **"STATUTE"** shall be construed as a reference to that provision as amended re-enacted or extended at the relevant time.

## 2. BASIS OF CONTRACT

2.1 If the **CUSTOMER** requires any **GOODS** and/or **SERVICES**, it shall submit an **ORDER FORM** requesting such **GOODS / SERVICES** and **BRITANNIC** shall notify the **CUSTOMER** whether it accepts such **ORDER FORM**. On counter-signature of the **ORDER FORM** by **BRITANNIC**, the **CUSTOMER ORDER** shall take effect as a binding **CONTRACT** between **BRITANNIC** and the **CUSTOMER**. Each **CUSTOMER ORDER** so formed shall constitute a separate **CONTRACT** subject at all times to these **CONDITIONS**.

2.2 **BRITANNIC** shall provide and the **CUSTOMER** shall accept **GOODS** and **SERVICES** in accordance with the **CUSTOMER ORDER** for the **CONTRACT TERM**, subject at all times to these **CONDITIONS**. These **CONDITIONS** shall govern the **CONTRACT**.

2.3 No variation to these **CONDITIONS** shall be binding unless agreed in writing and signed on behalf of the **CUSTOMER** and **BRITANNIC** by **AUTHORISED REPRESENTATIVES**.

2.4 **BRITANNIC's** employees or agents are not authorised to make any representations concerning any **GOODS** or **SERVICES** unless confirmed by **BRITANNIC** in **WRITING** by an authorised representative. In entering into the **CONTRACT** the **CUSTOMER** acknowledges that it does not rely on, and waives any claim for breach of any such representations which are not so confirmed.

2.5 Any advice or recommendation given by **BRITANNIC** or its employees or agents to the **CUSTOMER**, use of or otherwise in relation to the **GOODS** and **SERVICES** which is not confirmed in **WRITING** by **BRITANNIC** is followed or acted upon entirely at the **CUSTOMER's** own risk and accordingly **BRITANNIC** shall not be liable for any such advice or recommendation not so confirmed.

2.6 Any typographical, clerical or other error or omission in any sales literature, quotation, price list, acceptance of offer, **CUSTOMER ORDER**, invoice or other document or information issued by **BRITANNIC** shall be subject to correction without any liability on the part of **BRITANNIC**.

## 3. DURATION

3.1 These **CONDITIONS** shall remain in force for the duration of any **CONTRACT TERM**.

3.2 The **INITIAL TERM** for any **CONTRACT** shall commence on the **GO-LIVE DATE**. On expiry of such **INITIAL TERM**, the **CONTRACT** shall automatically renew for successive one (1) year periods unless and until terminated by either party on at least 42 (forty-two) days' notice, such notice to have effect on expiry of the **INITIAL TERM** or any renewal term (as applicable).

## 4. ORDERS AND SPECIFICATIONS

4.1 No order submitted by the **CUSTOMER** shall be deemed to be accepted by **BRITANNIC** unless and until confirmed in **WRITING** by **BRITANNIC's AUTHORISED REPRESENTATIVE**.

4.2 The **CUSTOMER** shall be responsible to **BRITANNIC** for insuring the completeness and accuracy of the terms of any order (including any applicable specification) submitted by the **CUSTOMER**, and for giving **BRITANNIC** any necessary information relating to the **GOODS** and **SERVICES** within sufficient time to enable **BRITANNIC** to perform the **CONTRACT** in accordance with its terms.

4.3 The quantity, quality, description and any specification for the **GOODS** and **SERVICES** shall be those set out in the **CUSTOMER ORDER**.

4.4 If the **GOODS** and **SERVICES** are to be manufactured, modified or any process is to be applied to them by **BRITANNIC** in accordance with the specification submitted by the **CUSTOMER**, the **CUSTOMER** shall indemnify **BRITANNIC** against all loss, damages, costs and expenses awarded against or incurred by **BRITANNIC** in connection with or paid or agreed to be paid by **BRITANNIC** in settlement of any claim for infringement of any patent, copyright design, trademark or other industrial or intellectual property rights or other rights of any third party which arises in connection with **BRITANNIC's** use of the **CUSTOMER'S** specification.

4.5 **BRITANNIC** reserves the right to make any changes in the specification of the **GOODS** and **SERVICES** which are required to conform to any applicable safety or other statutory requirements or, where the **GOODS** and **SERVICES** are to be supplied to **BRITANNIC's** specification, which do not materially affect their quality or performance.

## 5. DELIVERY/INSTALLATION

5.1 **BRITANNIC** and/or its appointed servants, agents, contractors will, at the **CUSTOMER's** expense, install **GOODS** and provide **SERVICES** as specified at the **CUSTOMER SITE** or such address as may be agreed in **WRITING** by the **CUSTOMER** and **BRITANNIC**.

5.2 **BRITANNIC** will use reasonable endeavours to meet any quoted delivery or installation dates in performance of the **CONTRACT**, but shall not be liable for any delay in or failure to meet such dates howsoever caused. Upon giving reasonable notice to the **CUSTOMER**, **BRITANNIC** may with the **CUSTOMER's** agreement (not to be reasonably withheld) be entitled to deliver the **GOODS** or **SERVICES** in advance of quoted delivery or installation dates.

5.3 The **CUSTOMER** shall obtain and pay for any equipment, wiring, licenses, permits, wayleaves, consents, permissions or certificates from any third party necessary for the installation of the **GOODS** and supply of **SERVICES** and if applicable the subsequent connection or otherwise to an external **NETWORK PROVIDER**.

5.4 If **BRITANNIC** fails to deliver the **GOODS** and **SERVICES** for any reason other than any cause beyond **BRITANNIC's** reasonable control or the **CUSTOMER's** fault and **BRITANNIC** is liable to the **CUSTOMER** under the **CONTRACT**, **BRITANNIC's** liability shall be limited to the excess (if any) of the cost to the **CUSTOMER** (in the cheapest available market) of similar **GOODS** to replace those not delivered over the price of the **GOODS** and **SERVICES**.

5.5 If the **CUSTOMER** fails to allow delivery or installation of the **GOODS** and **SERVICES** or fails to give **BRITANNIC** adequate instructions at the time stated for delivery or installation of **GOODS** or **SERVICES** (whether at the **CUSTOMER SITE** or otherwise) except by reason of the **CUSTOMER** undergoing a **FORCE MAJEURE EVENT** or a breach of **CONTRACT** by **BRITANNIC** then without prejudice to any other rights or remedies available to **BRITANNIC**, **BRITANNIC** may at its option: (a) store the **GOODS** or relevant **EQUIPMENT** until actual delivery or installation and charge the **CUSTOMER** for the reasonable costs (including insurance) of storage; (b) sell the **GOODS** at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the **CUSTOMER** for the excess over any amounts then due to **BRITANNIC** from the **CUSTOMER** (whether under the **CONTRACT** or otherwise) or charge the **CUSTOMER** for any shortfall below that overdue amount; (c) reasonably charge the **CUSTOMER** for any wasted time and expenditure; and (d) in

any event the **CUSTOMER** shall pay all **CHARGES** from and after the date that **BRITANNIC** is otherwise ready to deliver the **GOODS** and/or **SERVICES**.

5.6 The **CUSTOMER** shall not be entitled to return any **GOODS** without **BRITANNIC's** prior written consent and in any event at the **CUSTOMER's** expense. A restocking charge may also apply at **BRITANNIC's** discretion.

5.7 **BRITANNIC** may assist the **CUSTOMER** in obtaining finance to purchase the **GOODS** and **SERVICES** but the **CONTRACT** shall not be conditional upon the **CUSTOMER** obtaining finance.

## 6. PAYMENT

6.1 The **CHARGES** shall be as stated in the **CONTRACT**.

6.2 **CHARGES** are stated exclusive of any applicable **TAXES** which the **CUSTOMER** shall be additionally liable to pay to **BRITANNIC**.

6.3 Subject to Clause 6.4, the **CUSTOMER** shall be liable for all **CHARGES** from the **GO-LIVE DATE**. The **CUSTOMER** will be invoiced, on a pro-rata basis where applicable: (a) monthly in advance for the recurring portion of the **CHARGES** and (b) monthly in arrears (or within a reasonable timescale) for any other **CHARGES**. The non-recurring **CHARGES** set out on the **CUSTOMER ORDER** shall be payable on the **GO-LIVE DATE** and any other non-recurring **CHARGES** will be invoiced during the month in which they were incurred. All **CHARGES** shall be due upon the **CUSTOMER's** receipt of the invoice and payable within 7 (seven) days of the invoice date. Payment shall be made without deduction, set-off or counterclaim except (and to the extent that) the **CUSTOMER** has a valid court order entitling it to do so.

6.4 If the **CUSTOMER** is purchasing **GOODS** and **SERVICES** outright or any such purchase is being funded on behalf of the **CUSTOMER** by a third party leasing company not arranged by **BRITANNIC**, or in any other circumstances that may be agreed between **BRITANNIC** and the **CUSTOMER**, the **CUSTOMER** shall within 7 (seven) days, of signing the relevant **CUSTOMER ORDER** pay a deposit sum equal to 40% of the total **CHARGES** as set out in the **CUSTOMER ORDER** (100% for Network/Managed Services implementation charges) and a further 50% will be due within 7 (seven) days of initial delivery of the relevant **GOODS / SERVICES** under the **CONTRACT** (0% for Network/Managed Services implementation charges). The balance of the **CHARGES** shall become due 7 (seven) days after completion of delivery or (if later) installation of the applicable **GOODS / SERVICES**. If the **GOODS** are to be subject to a leasing arrangement arranged by **BRITANNIC** then the **CUSTOMER** shall pay **BRITANNIC** the equivalent of the first quarter leasing payment as way of a deposit. The **CUSTOMER** undertakes to authorise the leasing company to release the full payment of funds to **BRITANNIC** within 7 (seven) days of the delivery of the **GOODS**. A deposit of the sum of the first 3 months fixed payments to **BRITANNIC** under a Master Services/Network Services Agreement shall be invoiced to the **CUSTOMER** by **BRITANNIC** on receipt of the **CUSTOMER** order. This deposit will be refunded by **BRITANNIC** to the **CUSTOMER** at the end of the initial term of the contract on the assumption that the account is up to date.

6.5 Where **BRITANNIC** agrees to deliver the **GOODS** otherwise than at **BRITANNIC's** premises the **CUSTOMER** shall be liable to pay **BRITANNIC's** charges for transport, packaging and insurance.

6.6 Time of payment of **CHARGES** is of the essence of the **CONTRACT**. Receipts of payment will be issued only upon request.

6.7 If payment is not made in accordance with this **CONTRACT**, **BRITANNIC** may without prejudice to any rights under these **CONDITIONS** charge interest on the outstanding sum at the rate of 8% (eight per cent) above the base lending rate of Lloyds TSB Bank plc from time to time for the period beginning on the date payment is due until the date payment is actually made. **BRITANNIC** shall also be entitled to compensation from the **CUSTOMER** for its debt recovery costs up to the maximum amount allowed by law from time to time.

6.8 If the **CUSTOMER** fails to make any payment in the due date and without prejudice to any other right or remedy available to **BRITANNIC**, **BRITANNIC** shall be entitled to appropriate any payment made by the **CUSTOMER** in regards to the **GOODS** and **SERVICES** or **GOODS** and **SERVICES** supplied under any other **CONTRACT** between the **CUSTOMER** and **BRITANNIC** as **BRITANNIC** may think fit notwithstanding any purported appropriation by **CUSTOMER**.

6.9 The **CUSTOMER** may, acting in good faith, dispute any portion of an invoice provided that the **CUSTOMER**: (a) pays the full undisputed portion of the invoice by the due date; (b) provides **BRITANNIC** with a written statement and supporting documentation regarding the dispute within 30 (thirty) days from the date of the relevant invoice and (c) negotiates in good faith with **BRITANNIC** to resolve the dispute. If the dispute has not been resolved within 30 (thirty) days from the **CUSTOMER's** original written claim then either party may pursue its rights or remedies in the manner set out in this **CONTRACT**.

6.10 All regular monthly **CUSTOMER** payments for **SERVICES** must be made by monthly direct debit. If **CUSTOMER** payments for these **SERVICES** are not made by direct debit then the invoiced cost of these services may be increased by 5%. In addition, we reserve the right to apply a £25 per month administration charge.

## 7. CHARGES

7.1 **BRITANNIC** reserves the right by giving notice to the **CUSTOMER** at any time before delivery to increase the **CHARGES** to reflect any increase in the cost to **BRITANNIC** which is due to any factor beyond the control of **BRITANNIC** such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, significant increase in cost of labour, materials or other costs of manufacturing any change in delivery dates, quantities or specifications for the **GOODS** and **SERVICES** which is requested by the **CUSTOMER**, or any delay caused by any instructions of the **CUSTOMER** or failure of the **CUSTOMER** to give **BRITANNIC** adequate information or instructions.

7.2 **BRITANNIC** may change the level of its **CHARGES** after giving the **CUSTOMER** at least 30 (thirty) days' prior written notice of its intention to do so. This notice may be included in an invoice to the **CUSTOMER**. If **BRITANNIC** increases the **CHARGES** by more than the then-current Retail Price Index or Customer Price Index (whichever is higher) as published by the Office for National Statistics (or anybody that may replace it), the **CUSTOMER** may terminate the Agreement by giving **BRITANNIC** at least 42 (forty two) days' written notice, such notice to be served within 10 (ten) days of the date of the notice of increase, without the obligation to pay cancellation charges.

7.3 In respect of services **BRITANNIC** may also change the level of its **CHARGES** during or after the **INITIAL TERM**, retrospectively as well as prospectively, as a consequence of (a) any **REGULATOR's** direction, determination, order or similar decision and/or (b) any notice issued by the **NETWORK PROVIDER** correcting an error in the amount or application of a charge or payment under its interconnect agreement with **BRITANNIC**. In both cases, **BRITANNIC** shall only be entitled to change the level of its **CHARGES** where the foregoing impacts upon the basis upon which the **CHARGES** were calculated.

7.4 The **CUSTOMER** acknowledges that in the event of any dispute on **CHARGES** relating to usage or availability, **BRITANNIC's** records on such usage or availability (including without limitation of details logged or recorded on its billing platform) shall be presumed to be accurate unless proved otherwise by an independent auditor.

7.5 The **CUSTOMER** will be responsible for all **CHARGES** incurred in respect of **GOODS / SERVICES** even if such **CHARGES** were incurred through, or as a result of, fraudulent or unauthorised use of such **GOODS / SERVICES**. **BRITANNIC** may, but is not obliged to, detect unauthorised or fraudulent use.

7.6 **BRITANNIC** may at any time, if the **CUSTOMER** has defaulted on payments under a **CONTRACT**, if the **CUSTOMER's** credit rating decreases at any time or if **BRITANNIC** otherwise reasonably believes that the

financial situation of the **CUSTOMER** may adversely affect the **CUSTOMER's** ability to pay the **CHARGES** during the **CONTRACT TERM**: (a) require the **CUSTOMER** to make payment in advance for the **GOODS / SERVICES**, up to a maximum of 3 (three) months' recurring **CHARGES**. The **CUSTOMER** shall provide such requested payment within 10 (ten) **BUSINESS DAYS** of the request and **BRITANNIC** shall not be required to deliver or continue to deliver any **GOODS / SERVICES** until such security has been obtained; and/or (b) revise the payment terms for future invoices to less than 30 (thirty) days on written notice to the **CUSTOMER**.

7.7 **CHARGES** shall continue to be payable during any period of suspension or restriction requested by the **CUSTOMER** or imposed in accordance with these **CONDITIONS**, in addition to any **CHARGES** payable due to such suspension or restriction.

7.8 If **BRITANNIC** agrees to fix a fault that is caused by the **CUSTOMER** or that otherwise falls outside the responsibility of **BRITANNIC** or where no fault is found, **BRITANNIC** may charge the **CUSTOMER** for any work that **BRITANNIC** has undertaken at its applicable man-hour rate.

7.9 The **CUSTOMER** shall pay any cancellation charges, abortive visit charges, engineering visit or site survey charges, or support service charges imposed on **BRITANNIC** by any **NETWORK PROVIDER** or other third party provider relating to the **GOODS** or **SERVICES**, save where such abortive visit or service support charges arise through **BRITANNIC's** breach of **CONTRACT**.

7.10 Where **BRITANNIC** agrees to do work outside a **BUSINESS DAY** at the request of the **CUSTOMER**, **BRITANNIC** may charge the **CUSTOMER** in accordance with **BRITANNIC's** applicable man-hour rate.

## 8. RISK AND PROPERTY

8.1 Risk of damage to or loss of the **GOODS** shall pass to the **CUSTOMER** at the point of: (a) **BRITANNIC** notifying the **CUSTOMER** that the **GOODS** are available for collection; or (b) in the case of **GOODS** to be delivered or installed otherwise than at **BRITANNIC's** premises: (i) at the time of such delivery or installation; or (ii) if the **CUSTOMER** fails to allow delivery or installation in accordance with these **CONDITIONS**, then at the time when **BRITANNIC** has attempted such delivery or installation.

8.2 Notwithstanding delivery or installation and the passing of risk in the **GOODS** or any other provision of these **CONDITIONS**, property in the **GOODS** shall not pass to the **CUSTOMER** until **BRITANNIC** has received in cash or clear funds payment in full of the price of the **GOODS** and all other **GOODS** and **SERVICES** agreed to be supplied by **BRITANNIC** to the **CUSTOMER** under any contract for which payment is then due.

8.3 Without prejudice to the generality of Clause 8.2, in the event that **BRITANNIC** allows the **CUSTOMER** credit terms or terms upon which the **CUSTOMER** can pay the price by instalments, property in the **GOODS** shall not pass to the **CUSTOMER** until the final instalment of the purchase price has been made to **BRITANNIC**.

8.4 Until property in **GOODS** passes from **BRITANNIC** to the **CUSTOMER**: (a) the **CUSTOMER** shall hold the **GOODS** as **BRITANNIC's** fiduciary agent and bailee and shall keep the **GOODS** separate from those of the **CUSTOMER** and third parties and properly stored, protected and insured and identified as **BRITANNIC's** property. (b) **BRITANNIC** shall be entitled at any time to require the **CUSTOMER** to deliver up the **GOODS** to **BRITANNIC** and, if the **CUSTOMER** fails to do forthwith, to enter upon any premises of the **CUSTOMER** or any third party where the **GOODS** are stored and repossess the **GOODS**; and (c) the **CUSTOMER** shall not to be entitled to pledge or in any way charge by the way of security for any indebtedness any of the **GOODS**. However, if the **CUSTOMER** purports to do so in breach of these **CONDITIONS**, all monies owing by the **CUSTOMER** to **BRITANNIC** under any contract shall (without prejudice to any other right or remedy of **BRITANNIC**) forthwith become due and payable.

## 9. CUSTOMER OBLIGATIONS

### 9.1 The **CUSTOMER** shall:

(a) provide such co-operation to **BRITANNIC** as **BRITANNIC** may reasonably require in order to perform its obligations under the **CONTRACT**. This includes, without limitation, providing **BRITANNIC** and its agents or representatives access to the **CUSTOMER SITES** to the extent reasonably required to provide, install, connect, inspect, maintain, repair and/or remove the **GOODS** and/or **SERVICES** (as applicable).

(b) obtain all necessary permissions, licences and consents from third parties necessary to allow **BRITANNIC** such access.

(c) obtain any consent or facility that is necessary or desirable for **BRITANNIC** to supply the **GOODS** and **SERVICES** to the **CUSTOMER SITE**.

(d) at its own cost ensure that each **CUSTOMER SITE** is a proper environment for the housing of **GOODS** and **EQUIPMENT** and to receive the **SERVICES**, and shall comply with any conditions notified by **BRITANNIC** to it in this regard from time to time. The **CUSTOMER** shall reinstate the **CUSTOMER SITES** at its own cost after **BRITANNIC** has completed any work necessary for performance of a **CONTRACT**.

(e) comply with all laws and regulations regarding the working conditions on the **CUSTOMER SITE**.

(f) keep all of **BRITANNIC's EQUIPMENT** (as notified to the customer) at the **CUSTOMER SITE** safe (such **EQUIPMENT** to be at the **CUSTOMER's** risk while at any **CUSTOMER SITE**) and shall pay for the replacement and/or repair of any of **BRITANNIC's EQUIPMENT** which is lost, damaged (otherwise than by fair wear and tear) or destroyed. The **CUSTOMER** shall not alter or move any of **BRITANNIC's EQUIPMENT**, nor do anything that is likely to damage or adversely affect its performance, nor remove or deface any words or signs on it, nor permit anyone else to do so. The **CUSTOMER** shall not sell, let, mortgage, charge, pledge, dispose of or do anything that would prejudice **BRITANNIC's EQUIPMENT** or the **GOODS** or **SERVICES** in any way. The **CUSTOMER** will allow **BRITANNIC** to inspect, test, modify, change, add to, replace or remove any **EQUIPMENT**, either remotely or via a designated maintainer.

(g) ensure that any equipment (excluding **EQUIPMENT**) that it uses in connection with the **GOODS** and **SERVICES** meets any legal or regulatory requirements and is approved for connection to such **GOODS / SERVICES**. If not, the **CUSTOMER** must immediately disconnect it or allow **BRITANNIC** to do so at the **CUSTOMER's** expense.

(h) obtain adequate Employer's Liability insurance, Public Liability Insurance and any other necessary policies for the protection of **BRITANNIC's** personnel and property (including any **EQUIPMENT**) while at any **CUSTOMER SITE**, and provide **BRITANNIC** reasonable evidence of such insurance on request.

### 9.2 The **CUSTOMER** warrants that:

(a) it shall conduct its operations and use the **SERVICES** in a manner which does not interrupt impair or interfere with the operations of any of the networks provided by **BRITANNIC** or any **NETWORK PROVIDER** or the use of that network by **BRITANNIC**, the **NETWORK PROVIDER** or other persons. The **CUSTOMER** shall comply at all times with any reasonable operating procedures and/or interconnection requirements of **BRITANNIC** and/or the **NETWORK PROVIDER** or the **REGULATOR** as may be notified to the **CUSTOMER** from time to time.

(b) it, and its end users, will not use any **GOODS** or **SERVICES** in any manner which: (i) infringes any applicable law, rule, regulation or other legal or regulatory requirement; (ii) is defamatory or which is otherwise an actionable statement; (iii) breaches **BRITANNIC's** acceptable use policy as available on **BRITANNIC's WEBSITE** from time to time or instructions which **BRITANNIC** and/or the **NETWORK PROVIDER** or the **REGULATOR** may



give the **CUSTOMER** from time to time; (iv) infringes or contains any content which infringes the rights of others, including without limitation any copyright, patent, trade mark, trade secret, privacy or proprietary right; (v) stores, reproduces, transmits, communicates or receives any offending material; (vi) is fraudulent; (vii) is for the purpose of making offensive, indecent, menacing, nuisance or hoax calls; and/or (viii) otherwise results in any liability of **BRITANNIC** and/or the **NETWORK PROVIDER**.

(c) it has and shall maintain in force all necessary licences or consents required by any **REGULATOR** which are relevant to its use of any **GOODS** or **SERVICES** provided to it by **BRITANNIC** under a **CONTRACT**.

9.3 The **CUSTOMER** acknowledges that **BRITANNIC** does not monitor and will have no liability or responsibility for the content of any communications transmitted via or hosted by any Service, or in relation to the way in which the **CUSTOMER** or any of its end-users uses a Service. The **CUSTOMER** is responsible for implementing any desired security mechanisms in relation to the Service.

9.4 The **CUSTOMER** shall indemnify and hold **BRITANNIC** harmless from and against any claims, demands, actions, costs, liability or losses (including legal fees) arising out of (a) breach of **CONTRACT** by the **CUSTOMER**; (b) death, personal injury, loss of or damage to property sustained by any of **BRITANNIC's** employees and agents while visiting a **CUSTOMER SITE**; (c) the use of **GOODS** and **SERVICES** by the **CUSTOMER** and its end-users.

9.5 The **CUSTOMER** shall comply with all reasonable recommendations provided to it by **BRITANNIC** with a view to minimising the risk of fraud.

## 10 WARRANTIES AND DISCLAIMERS

10.1 Subject to the **CONDITIONS** set out below in Clauses 10 and 11 **BRITANNIC** warrants that:

(a) the **GOODS** will correspond in all material respects with their specification and will be free from material defects in quality for a period of twelve months from the date of their initial supply to the **CUSTOMER**; and

(b) **BRITANNIC** will exercise the skill and care of a reasonably competent provider of converged information communication services in carrying out its obligations under the **CONTRACT**.

10.2 While the **SERVICES** cannot be guaranteed to be fault free, **BRITANNIC** shall use reasonable endeavours to provide the same quality of service to the **CUSTOMER** as it provides from time to time to its customers generally.

10.3 **BRITANNIC** shall in no event be liable:

(a) in respect of any defect in the **GOODS** or **SERVICES** arising from any drawing design or specification supplied by the **CUSTOMER**.

(b) in respect of any defect arising from fair wear and tear, wilful damage negligence, abnormal working conditions, failure to follow **BRITANNIC's** instructions whether oral or in **WRITING**, misuse or alteration or repair of the **GOODS** or **SERVICES** without **BRITANNIC's** approval in **WRITING**.

(c) in respect of any failure or defective working of the **GOODS** or **SERVICES** due to any fault, failure or change in the electricity supply service and/or the external network carrier's equipment (including without limitation that of the **NETWORK PROVIDER** and/or other third party systems, network or equipment).

(d) in respect of parts, materials or equipment not manufactured by **BRITANNIC** or network services not provided directly by **BRITANNIC**. **BRITANNIC** will use reasonable endeavours to transfer to the **CUSTOMER** the benefit of any such warranty or guarantee in relation to any **GOODS** or **EQUIPMENT** and/or such service levels

in relation to such **SERVICES** as is given by the manufacturer, supplier or **NETWORK PROVIDER** to **BRITANNIC**, and the **CUSTOMER's** rights and remedies in relation to such **GOODS, EQUIPMENT** or element of the **SERVICES** shall be limited to the terms of such manufacturer, supplier or **NETWORK PROVIDER's** warranty, service levels or guarantee.

(e) for failure to comply with its obligations under any **CONTRACT** if such failure is due to any act, omission or failure of the **CUSTOMER** or any third party.

10.4 Unless the **CUSTOMER** has entered into a **CONTRACT** for support services in relation to **GOODS** as well as a **CONTRACT** for the supply of such **GOODS**, any faulty **GOODS** should be returned at the **CUSTOMER's** cost to **BRITANNIC** for repair and then returned to the **CUSTOMER**.

10.5 **BRITANNIC** shall be under no liability under any warranties set out above (or any other warranty, condition or guarantee) if the total price for the relevant **GOODS** or **SERVICES** has not been paid by the due date for payment.

10.6 Subject to Clause 11.5 and except where expressly set out in the **CONTRACT** or where the **GOODS** and **SERVICES** are sold to a person dealing with a consumer (within the meaning of the Unfair Contract Terms Act 1977), all warranties, conditions or other terms implied by statute, common law or otherwise howsoever are excluded to the fullest extent permitted by applicable law.

## 11. LIABILITY

11.1 Any claim by the **CUSTOMER** which is based on any defect in the quality or condition of the **GOODS** and **SERVICES** or their failure to correspond with the applicable specification provided in writing by an authorised representative of **BRITANNIC** as part of a **CONTRACT** shall be notified to **BRITANNIC** within 10 (ten) days in **WRITING** from the date of delivery or (where the defect or failure was not apparent on reasonable inspection) within a reasonable time after discovery of the defect or failure. If the **CUSTOMER** does not notify **BRITANNIC** accordingly, the **CUSTOMER** shall not be entitled to reject the **GOODS** and **SERVICES** and **BRITANNIC** shall have no liability for such defect or failure, and the **CUSTOMER** shall be bound to pay the price as if the **GOODS** and **SERVICES** had been delivered in accordance with the **CONTRACT**.

11.2 Where any valid claim in respect of any of the **GOODS** or **SERVICES** is notified to **BRITANNIC** in accordance with these **CONDITIONS**, **BRITANNIC** shall be entitled to replace such **GOODS** and/or re-perform such **SERVICES** (or the part in question) free of charge or, at **BRITANNIC's** sole discretion, refund to the **CUSTOMER** the price of such **GOODS** and/or **SERVICES** (or the applicable proportion of the **CHARGES**), and **BRITANNIC** shall have no further liability to the **CUSTOMER**.

11.3 Subject to Clause 11.5, **BRITANNIC** shall not be liable to the **CUSTOMER** by reason of any representation, or any implied warranty, condition or other term, or any duty, common law or under the expressed terms of the **CONTRACT**, for any loss of revenue, profit, goodwill, anticipated savings, data, wasted expenditure or pure economic loss of whatever nature or any indirect, incidental or consequential losses, liabilities or damages whatsoever arising from, or relating to the **CONTRACT** or the performance or non-performance of its obligations hereunder (irrespective of whether such losses, liabilities or damages are foreseeable or within the parties' reasonable contemplation).

11.4 Subject to Clauses 11.3 and 11.5, in any event, **BRITANNIC's** aggregate liability in connection with any **CONTRACT** during each **YEAR** (whether such liability arises in contract, tort, negligence or otherwise howsoever) through indemnification or otherwise, shall not exceed the total amount paid by the **CUSTOMER** to **BRITANNIC** under that **CONTRACT** during that **YEAR**.

11.5 **BRITANNIC** does not limit or exclude its liability for fraud or deceit, personal injury or death arising from its negligence, for breach of any condition as to title implied by section 12 of the Sale of Goods Act 1979 or

section 2 of the Supply of Goods and Services Act 1982 or for any other liability that cannot validly be excluded or limited by law.

11.6 **BRITANNIC** shall have no liability to any of the **CUSTOMER's** customers and end-users in relation to the **GOODS** and **SERVICES** and any **CONTRACT**, and the **CUSTOMER** shall indemnify **BRITANNIC** for any and all costs, damages, liabilities and expenses arising out of or relating to any claim made by such party.

11.7 The **CUSTOMER** acknowledges that (a) the **CONTRACT** price reflects the level of liability undertaken by **BRITANNIC** as set out in Clause 11 and that if the exclusions and limitations contained in clause 11 were not to apply then **BRITANNIC** would not be willing to perform the **CONTRACT** for that price; and (b) the exclusions and limitations contained in Clause 11 are regarded by the **CUSTOMER** as reasonable and reflect the agreed balance of risk.

## 12. MODIFICATIONS

12.1 Due to **BRITANNIC's** policy of continuous product and service development it reserves the right to make changes to the **GOODS** and **SERVICES** without notice provided that this does not have any material adverse effect on the **CUSTOMER**.

12.2 **BRITANNIC** reserves the right to change the terms, specifications and/or conditions of a **CONTRACT** upon not less than 30 (thirty) days advance notice to the **CUSTOMER** other than where such changes are being made as a consequence of governmental or regulatory action, in which case **BRITANNIC** shall give as much notice as is practicable in the circumstances. If **BRITANNIC** makes a change in a manner materially adverse to the **CUSTOMER** then the **CUSTOMER** may cancel the applicable element of the relevant **CONTRACT** without penalty within 10 (ten) days of the change by providing written notice to **BRITANNIC**. Such cancellation shall take effect 30 (thirty) days from the date of the **CUSTOMER's** notice of cancellation. Otherwise, the **CUSTOMER's** continued use of such **GOODS** or **SERVICES** constitutes the **CUSTOMER's** acceptance of any changes. In the case of governmental or regulatory action, **BRITANNIC** shall also have the right to cancel or alter the terms and conditions of the **CONTRACT** if, in its reasonable judgment the action will make performance of the **CONTRACT** more expensive, difficult or substantially impaired. In the case of such action, **BRITANNIC** will also have the right to pass through to and invoice the **CUSTOMER** on a pro-rata basis for any new or increased **TAXES** or other charges imposed on or required to be collected by **BRITANNIC** by any governmental agency.

12.3 **BRITANNIC** shall have the right to modify a **CONTRACT** in accordance with these **CONDITIONS** by posting an updated version of the **CONTRACT** on the **BRITANNIC WEBSITE** and notifying the **CUSTOMER** accordingly by email sent to the **CUSTOMER's** main point of contact.

## 13. TERMINATION AND SUSPENSION

13.1 **BRITANNIC** may terminate the **CONTRACT** or, at **BRITANNIC's** discretion, cease or suspend the provision of **GOODS** and/or **SERVICES** whether under this **CONTRACT** or any other contract with the **CUSTOMER**, upon written notice to the **CUSTOMER** if: (a) the **CUSTOMER** fails to pay any **CHARGES** when due and does not cure the failure within 5 (five) days of a notice requiring payment; (b) the **CUSTOMER's** unpaid balance or use of the Service exceeds the **CUSTOMER's** credit limit (if any); (c) if the **CUSTOMER** commits a breach of Clause 9.2; (d) the **CUSTOMER** commits a breach of the **CONTRACT** (other than a breach described in Clause 9.2), and does not cure such breach within 30 (thirty) days of written notice from **BRITANNIC**; (e) information supplied by the **CUSTOMER** to **BRITANNIC** in relation to the **CONTRACT** is a material misrepresentation or inaccuracy; (f) the **CUSTOMER** suffers or undergoes an **EVENT OF INSOLVENCY** or **BRITANNIC** reasonably suspects that the **CUSTOMER** may imminently undergo an **EVENT OF INSOLVENCY**; (g) where a **CONTRACT** is signed before **BRITANNIC** has completed its credit check of the **CUSTOMER**, and the **CUSTOMER** subsequently fails to pass

**BRITANNIC's** credit policy; or (h) **BRITANNIC** is obliged to comply with an order, instruction or request of a court, government agency, emergency service organisation or other administrative or regulatory authority.

13.2 The **CUSTOMER** may terminate the **CONTRACT** without liability if: (a) **BRITANNIC** commits a material breach of the Agreement and, in the case of a breach capable of remedy has not cured such breach within 30 (thirty) days of receipt of written notice from the **CUSTOMER** setting out the details of the breach and requiring its remedy; or (b) **BRITANNIC** suffers or undergoes an **EVENT OF INSOLVENCY**.

13.3 For the purposes of this Clause 13, a breach shall be considered capable of remedy if the party in breach can comply with the provision in question in all respects other than as to the time of performance.

13.4 The **CUSTOMER** may not cancel any **CONTRACT** before expiry of the **CONTRACT TERM** except if it is expressly permitted to do so under the terms of the **CONTRACT**. The **CUSTOMER** specifically acknowledges that the **CONTRACT** price is based on the agreed **CONTRACT TERM** and the **CUSTOMER** may have obtained favourable pricing terms on the basis of a long-term commitment. The **CUSTOMER** agrees that if it cancels a **CONTRACT** following **CONTRACT** signature but prior to the end of the **CONTRACT TERM**, then it shall pay **BRITANNIC** a cancellation charge equal to 100% of the then remaining **CHARGES** which would have been due to **BRITANNIC** for the remaining **CONTRACT TERM** on receipt of an invoice from **BRITANNIC**. Both parties acknowledge and agree that the above cancellation charges are a genuine pre-estimate of **BRITANNIC's** loss in the event that the **CUSTOMER** were to terminate a **CONTRACT** prior to the end of the **CONTRACT TERM** and that they are not intended as a penalty. The cancellation charges provided in this Clause 13.4 shall not apply if the **CUSTOMER** cancels a **CONTRACT** pursuant to Clause 7.2, 11.2 or 12.2.

13.5 **BRITANNIC** may, in its sole discretion and upon giving the **CUSTOMER** written notice, suspend, terminate or vary provision of the **GOODS / SERVICES** without liability (unless due to the default of **BRITANNIC**) for any period during which:

(a) **BRITANNIC** is required to do so in order to avoid a breach of the authorisation of **BRITANNIC** under the Communications Act 2003 (or any applicable legislation or legal requirements relevant to the performance of the **CONTRACT**), as amended from time to time;

(b) **BRITANNIC** is obliged or requested to comply with an order or instruction of, or a recommendation or request to take such action received from any **REGULATOR**, emergency services organisation or a competent administrative authority;

(c) **BRITANNIC** reasonably suspects or believes that the **CUSTOMER** is in breach of Clauses 9.2;

(d) the **CUSTOMER** fails to comply with measures imposed by **BRITANNIC** pursuant to Clause 7.6;

(e) **BRITANNIC's** contract with the **NETWORK PROVIDER** relating to the **SERVICES** is suspended, varied or terminated; or

(f) any licence from a **REGULATOR** which **BRITANNIC** requires to perform the **CONTRACT** is not granted on application or is revoked or amended (and not replaced by an equivalent licence or right) so that **BRITANNIC** is unable to perform the **CONTRACT**.

13.6 **BRITANNIC** may at any time suspend provision of the **GOODS** or **SERVICES** or any part of them, without liability:

(a) to vary the technical specification in order to comply with any relevant law or regulation or direction from a competent authority;

(b) to repair, maintain or improve the **GOODS / SERVICES**; or

(c) if required due to any alterations made to the underlying **SERVICE** or any routine or emergency maintenance of the underlying **SERVICE** by the **NETWORK PROVIDER** (including, without limitation, conversions, shifts, reconfigurations and renumbers) which may result in disruption. **BRITANNIC** will, during such suspension under this Clause 13.6, try to ensure that minimum disruption is caused to the **GOODS** or **SERVICES**.

13.7 If **BRITANNIC** has terminated or suspended a **CONTRACT** or a **SERVICE** in accordance with the **CONTRACT** due to any default of the **CUSTOMER** or any of its end-users, then the **CUSTOMER** agrees to pay **BRITANNIC** a reasonable reconnection fee if **BRITANNIC** agrees to re-activate the **CONTRACT**.

13.8 Termination of a **CONTRACT** shall be without prejudice to any other right or remedy of either party in accordance with this **CONTRACT**.

13.9 On termination of a **CONTRACT** (howsoever caused):

(a) where applicable, the communication service may be disconnected unless the **CUSTOMER** makes alternative arrangements with **BRITANNIC**;

(b) **CHARGES** for any **GOODS** and **SERVICES** that have been delivered but not paid shall become immediately due and payable; and

(c) the **CUSTOMER** will allow **BRITANNIC** access to collect any of **BRITANNIC's EQUIPMENT** in the **CUSTOMER's** possession, custody or control.

#### 14. CONFIDENTIAL INFORMATION

14.1 The parties will keep in strict confidence all information (whether written, electronic or oral) of a confidential nature obtained (whether directly or indirectly) from the other party under or in connection with any **CONTRACT** ("**CONFIDENTIAL INFORMATION**"). Each party agrees not to disclose the other party's Confidential Information to any person (other than their employees who need to know the information for the purpose of the **CONTRACT** and who are under an equivalent duty of confidentiality) without the prior written consent of the other party. Each party shall: (a) use the other party's Confidential Information only for the performance of its obligations under the **CONTRACT**; (b) treat all Confidential Information of the other party in the same manner as it treats its own, but in no case with less than reasonable care; and (c) not make copies of the other party's Confidential Information.

14.2 Clause 14.1 will not apply to information which: (a) is publicly available other than through a breach of contract; (b) is lawfully in the possession of the recipient before disclosure by the other party and is not otherwise subject to a confidentiality undertaking; (c) is obtained through a third party who is free to disclose it; or (d) is required by law to be disclosed (and then, to the extent legally permissible, only after reasonable advance notice to the disclosing party).

14.3 Neither party may use the other party's trademarks, service marks or trade names ("**MARKS**") or otherwise refer to the other party without the prior written consent of the other party, which consent shall not be unreasonably withheld, in the case of marketing, promotional or advertising materials or activities. Each party's **MARKS** are proprietary to such party and nothing in the **CONTRACT** constitutes the grant of a general licence for their use. Upon termination of all **CONTRACTS** or delivery of written notice by a party, all rights of the other party to use such party's **MARKS** shall expire.

#### 15. SOFTWARE

15.1 All intellectual property rights in the **GOODS / SERVICES** and in any documents, software or other materials provided by **BRITANNIC** to the **CUSTOMER** shall vest and remain vested in **BRITANNIC** (or its third

party licensors). The **CUSTOMER** will have a non-exclusive, non-transferable, revocable licence to use such materials solely for its internal use to the extent necessary to receive the **GOODS / SERVICES** for the duration of the applicable **CONTRACT TERM**. Such licence shall not entitle the **CUSTOMER** to claim title to, or any ownership interest in, the materials (or any derivations or improvements thereto) and the **CUSTOMER** will execute any documentation reasonably required by **BRITANNIC** to document **BRITANNIC's** (or its third party licensor's) existing and continued ownership of such rights.

15.2 If **BRITANNIC** provides the **CUSTOMER** with any software under a **CONTRACT**, the terms of the licence set out in Clause 15.1 apply. In addition the **CUSTOMER** agrees in relation to any such software that it is only entitled to use the software in object code form. The **CUSTOMER** will not and will not permit others to: (a) copy such software except as permitted by **BRITANNIC** or as reasonably required for back-up purposes; (b) reverse engineer, decompile or disassemble such software save to the extent that it cannot be prohibited by doing so under applicable law; (c) sell, lease, licence or sub licence such software; d) create, write or develop any derivative software or any other software program based on such software or any Confidential Information of **BRITANNIC**; (e) merge or include such software with or in any other software; or (f) take any action prohibited by the owner of such software.

15.3 If the **CUSTOMER** wishes to obtain information necessary to create an independent program which can be operated with any such software, the **CUSTOMER** shall be entitled to request such information from **BRITANNIC**. **BRITANNIC** will if possible following such request promptly provide details of the terms on which such information will be made available.

15.4 The **CUSTOMER** acknowledges that notwithstanding the express terms of this Clause 15, where **BRITANNIC** provides the **CUSTOMER** with third party proprietary software and/or open source software as part of any **GOODS** or **SERVICES**, then different or additional terms and conditions may apply in relation to such software.

## 16. GENERAL

16.1 **Assignment.** The **CUSTOMER** may not assign or otherwise transfer (including, without limitation, a transfer due to a change in control of the **CUSTOMER**) any of its rights under the **CONTRACT** without the prior written consent of **BRITANNIC**, which shall not be unreasonably withheld. No permitted assignment or transfer shall relieve the **CUSTOMER** of its obligations hereunder and vice versa.

16.2 **Notices.** All notices or other communications under the **CONTRACT** (including without limitation any notices of breach or termination) shall be delivered in writing in one of the ways set out in this Clause 16.2. and in the absence of evidence of earlier delivery shall be deemed to have been delivered: (a) on the delivery date if delivered by hand; or (b) 3 (three) days after deposit in the mail by registered post. Notices sent to the **CUSTOMER** will be delivered to the **CUSTOMER's** address set out on the first accepted **CUSTOMER ORDER**. Notices to **BRITANNIC** shall be sent as follows, marked for the attention of the Sales Director, with a copy to the relevant **BRITANNIC** Account Manager: Britannic Technologies, Britannic House, Merrow Business Park, Guildford Surrey GU4 7WA

16.3 **Data Protection.** In the course of a **CONTRACT**, the **CUSTOMER** may transfer Personal Data to **BRITANNIC** for **BRITANNIC** to Process (whether for the purposes of performing a **CONTRACT**, credit checking, debt collection (including disclosure to and use by third parties acting for **BRITANNIC**) or other legitimate purposes). Where Personal Data is Processed in the course of performance of a **CONTRACT**, the parties intend that the **CUSTOMER** will be the Data Controller and **BRITANNIC** will be a Data Processor in relation to such Personal Data. The **CUSTOMER** will ensure that it is entitled to transfer such Personal Data to **BRITANNIC** to lawfully allow **BRITANNIC** to process the Personal Data in accordance with this **CONTRACT**. **BRITANNIC** agrees that it shall only process such Personal Data received from the **CUSTOMER** as may be reasonably necessary for the purposes of the **CONTRACT** and as set out in **BRITANNIC's** privacy policy available on the **BRITANNIC WEBSITE** from time to time. Without limitation, **BRITANNIC** may disclose such information to the extent required to do

so by any **REGULATOR**, the law or any relevant authority. **BRITANNIC** further agrees to take appropriate technical and organisational measures, having regard to the state of technological development, the cost of implementing any measures and the nature of the Personal Data to be protected, to protect such Personal Data from unauthorised or unlawful processing and against accidental loss or destruction of, or damage to, such Personal Data. Capitalised terms used in this clause and not defined elsewhere in the **CONTRACT** shall have the meanings given in the Data Protection Act 1998 (as may be amended from time to time).

**16.4 Force Majeure.** **BRITANNIC** shall not be liable to the **CUSTOMER** or be deemed to be in breach of the **CONTRACT** by reason of any delay in performing, or any failure to perform any of **BRITANNIC's** obligations under a **CONTRACT** if the delay or failure was due to a **FORCE MAJEURE EVENT**.

**16.5 Law.** The laws of England and Wales shall govern the **CONTRACT**.

**16.6 Dispute Resolution.** Any dispute or difference which may arise between **BRITANNIC** and the **CUSTOMER** shall initially be handled by each party's account manager. If no resolution is reached, then for disputes relating to £5000 or more, such disputes shall be finally resolved by arbitration under the UNCITRAL Rules in force at the date of this agreement. It is agreed that: (a) the tribunal shall consist of one arbitrator (who is to be a practising barrister); (b) if the parties do not agree upon the arbitrator, the appointing authority shall be the Chartered Institute of Arbitrators in London; (c) the seat of the arbitration shall be London; and (d) the language of the arbitration shall be English. For all other disputes, the parties hereby irrevocably submit to the exclusive jurisdiction of the courts of England and Wales. Nothing shall preclude either party's right to go to such courts to seek emergency or injunctive relief.

**16.7 Entire Understanding.** The **CONTRACT** sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings relating to the subject matter of the **CONTRACT**. The parties acknowledge that: (a) they have not entered into the **CONTRACT** in reliance of any representations, terms or other assurances not expressly set out in the **CONTRACT**; (b) their sole remedies in relation to the **CONTRACT** are those for breach of contract; and (c) that this Clause 16.7 does not apply in respect of any fraudulent representations or other assurances.

**16.8 Modifications.** Except as expressly provided by these **CONDITIONS** or any applicable **PRODUCT SCHEDULE**, the **CONTRACT** may only be amended or modified by a written document signed by both parties.

**16.9 Precedence.** If there is an inconsistency between a provision of these **CONDITIONS**, a provision in an applicable **PRODUCT SCHEDULE** and the **CUSTOMER ORDER**, then the **CUSTOMER ORDER** shall take priority, then the applicable **PRODUCT SCHEDULE** and then the provisions of these **CONDITIONS**.

**16.10 Surviving Terms.** All terms and conditions of the **CONTRACT** which by their nature are intended to survive termination of the **CONTRACT** shall so survive.

**16.11 Severability.** If any term, condition, clause or provision of the **CONTRACT** is held to be illegal or unenforceable, the validity or enforceability of the remainder of the **CONTRACT** shall not be affected thereby.

**16.12 Waiver.** Failure by **BRITANNIC** to enforce any of its rights under the **CONTRACT** will not act as a waiver of that right unless **BRITANNIC** acknowledges the waiver in writing and vice versa. No single waiver shall be deemed a continuous waiver.

**16.13 Third Party Beneficiaries.** Subject to the right of any **SUPPLIER** to enforce any of the terms of this **CONTRACT** directly against a **CUSTOMER**, a person who is not a party to this **CONTRACT** shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999 but this does not affect any right or remedy of a third party which exists, or is available, apart from that Act. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this **CONTRACT** are not subject to the consent of any person that is not a party to this agreement.