



## General Terms and Conditions

### 1. GENERAL

This agreement details all the terms and conditions upon which the Services (defined below) are supplied, or the Equipment hired by Orbital Net Limited to the Customer.

### 2. DEFINITIONS

2.1 Unless the context otherwise requires, the terms and expressions below shall have the meaning which is ascribed to them as follows:

**Agreement:** means this agreement between Orbital Net and the Customer for the sale and purchase of the Equipment and the Services incorporating these Terms and the Order.

**Circuit:** means the link (which serves) for the transmission of signals; it also includes a virtual circuit.

**Confidential Information:** means any commercial, financial or technical information, information, plans, know-how or trade secrets of either party which is confidential in nature or has been identified as confidential.

**Customer:** shall mean the named party specified in the Order

**Data Protection Laws:** means, as binding on either party or the Services:

- (a) GDPR;
- (b) Data Protection Act 2018;
- (c) any laws which implement any such laws; and
- (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

**Equipment:** shall mean the Equipment rented to the Customer by Orbital Net including all replacements and renewals of such Equipment and the component parts thereof and all accessories and additions thereto.

**Force Majeure:** means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Agreement including an act of God, fire, flood, lightning, earthquake or other natural disaster, war, riot or civil unrest, interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Agreement, strike, lockout or boycott or other industrial action including those involving Orbital Net's or its suppliers' workforce (including non-performance by suppliers or subcontractors) communication line failure, viruses, Trojan horses, worms, logic bombs, denial of service attacks or similar matters, but excluding the Customer's inability to pay.

**GDPR:** means the General Data Protection Regulation, Regulation (EU) 2016/679, as it forms part of domestic law in the United Kingdom by virtue of section 3 of the European Union (Withdrawal) Act 2018 (including as further amended or modified by the laws of the United Kingdom or of a part of the United Kingdom from time to time).



**Interruption of Service:** means as it relates to a Circuit or Service, the total technical inability to transmit signals.

**Leased Line Service(s):** means the provision of one of the following leased lines (i) access, (ii) ethernet, or (iii) private leased line services as specified on the Order, and each as described in Orbital Net's literature at the date of the Order;

**Minimum Period:** means the minimum period specified in the Order which shall commence on the Service Availability Date.

**Orbital Net:** shall mean Orbital Net Limited.

**Order:** means an order form sent by a Customer to Orbital Net requesting the Equipment and/or Services;

**Service Fee:** means the amount due for the Equipment and Services as stated on the Order and shall be payable on a monthly basis.

**Service(s):** means the telecommunications service(s) described in the Order, as well as any other service supplied by Orbital Net.

**Service Credits:** means the amount, as set out in the Service Level Agreement, Orbital Net will credit against the Service Fee if Orbital Net fails to meet the levels of service as set out in the Service Level Agreement.

**Service Level Agreement:** means Orbital Net's agreed service levels applying to the Service (where applicable as indicated on the Order Form.

**Service Availability Date:** means the date at which a Service is made available to a Customer, as evidenced by the installation completion form provided by Orbital Net to the Customer, whether or not the Service is actually used by such Customer.

**Statement of Account:** means a statement showing the activity on your account with Orbital Net.

**Term:** has the meaning given to it in clause 4.

**Terms:** means Orbital Net's general terms and conditions of sale set out in this document.

**VAT;** means value added tax under the Value Added Tax Act 1994.

## 2.2 In these Terms, unless the context otherwise requires:

2.2.1 a reference to the Agreement includes these Terms, the Order and their respective schedules and appendices (if any), and Orbital Net's Acceptable Use Policy, Privacy Policy and Price Guide;

2.2.2 any clause or other headings in these Terms are included for convenience only and shall have no effect on the interpretation of these Terms;

2.2.3 a reference to a 'party' means either Orbital Net or the Customer and includes that party's personal representatives, successors and permitted assigns;



2.2.4 a reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;

2.2.5 any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

2.2.6 a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form.

### **3. APPLICATION OF THE TERMS**

3.1 These Terms supersede any previously issued terms and conditions of purchase or supply which applies to the Equipment or Services.

3.2 No terms and conditions provided by the Customer, or delivered with or contained in the Customer's order, confirmation of order, or other document shall form part of the Agreement, except to the extent Orbital Net agrees otherwise in writing.

3.3 Each Order by the Customer to Orbital Net shall be an offer to purchase the Equipment and the Services, subject to this Agreement.

3.4 An Order shall not be accepted, and no binding obligation to supply the Equipment or the Services shall arise, until the earlier of:

3.4.1 Orbital Net's signature of the Order; or

3.4.2 Orbital Net delivering the Equipment or performing the Services or notifying the Customer that the Equipment is ready to be delivered, or the Services are ready to be performed (as the case may be) and Orbital Net has received any installation charges from the Customer in respect of the Equipment and/or Services.

### **4. DURATION OF THE AGREEMENT**

This Agreement shall be effective from the date on which the Order is accepted under clause 3.4 of this Agreement and shall be effective, unless terminated with 30 days' notice to end at the end of the Minimum Period or earlier in accordance with clause 15 (Termination), for the Minimum Period. After the end of the Minimum Period the Agreement will continue for successive periods of twelve (12) months, each a ("**Renewal Term**") unless terminated upon 30 days' notice to end at the end of the Renewal Period or earlier in accordance with clause 15 (Termination)

### **5. TERMS OF SERVICE**

5.1 In consideration of the Rental Fees, Orbital Net agrees to rent the Equipment to the Customer and to supply to the Customer the Services described in the schedule of services in the Order.

5.2 Orbital Net will indicate the proposed Service Availability Date. The Customer is deemed to have accepted the delivery of the Service on the Service Availability Date, whether or not the Customer makes use of the Service.

5.3 The Customer shall make available to Orbital Net, free of charge, adequate space, the required



electrical facilities and appropriate access to its premises for the purposes of installation, inspection, repair or maintenance of any Equipment required for performance of this Agreement throughout the Term. The Customer will afford Orbital Net or its representatives all facilities reasonably required to enable delivery and installation of the Equipment to take place.

- 5.4 The Customer grants permission to Orbital Net to install, repair, maintain, upgrade and remove the Equipment at its premises in order to provide the Services. Where the Customer is unable to grant such permission, it confirms that it has obtained any necessary consents from any third parties including any landlord or local authority consent required. The Customer understands that without such permission, Orbital Net may not be able to install the Equipment and provide the Services.
- 5.5 Orbital Net shall provide the Services in accordance with these Terms and subject to the applicable service levels as specified in the Service Level Agreement, if applicable.
- 5.6 Where the Service Level Agreement is applicable, in the event that Orbital Net fails to meet its obligations under such Service Level Agreement, it shall be liable to the Customer as set out in the Service Level Agreement and the Customer may be entitled to claim Service Credits. Any Service Credits would be calculated as set out in the Service Level Agreement. Service Credits, where applicable, shall be the Customer's sole and exclusive financial remedy.
- 5.7 Orbital Net reserves a fixed period from 00.01 a.m. to 03.00 a.m. every Sunday to undertake maintenance and changes relating to the Services in order to ensure their operation. In addition, Orbital Net may from time to time proceed with such trials, verifications, adjustments and maintenance relating to the Services as may be necessary. Every attempt will be made to schedule such work in advance at a time convenient to the Customer, and credit shall be granted to the Customer for any interruption resulting from such loss of Service; however no credit shall be granted for interruption to or loss of Service where maintenance, repair or replacement occurs as a result of damage caused to the Equipment by the Customer, its agents or representatives, whether by negligence or otherwise.
- 5.8 Any fault with the Services and/or the Equipment, which you detect must be reported to us as soon as possible either:-
- 5.8.1 by telephone to the Support team on 01233 80 70 60 8am to 6pm;
  - 5.8.2 by telephone to the Support team on 01233 80 70 60 outside office hours;
  - 5.8.3 to such other telephone number as we may notify to you from time to time for this purpose.
- 5.9 Orbital Net shall allocate a range of Internet Protocol (IP) addresses for use by the Customer for machines on its network for the Term. It will be the responsibility of the Customer to connect the Equipment to, and to configure its machines on, its own network.
- 5.10 The Equipment shall at all times remain in the ownership of Orbital Net and the Customer will have no rights in the Equipment other than as mere bailee (notwithstanding that it may have become affixed or attached to any land or building owned or occupied by the Customer). Orbital Net may however assign and sell its rights under this Agreement and its rights in and to the Equipment. The Equipment must only be used by the Customer and (unless Orbital Net otherwise agrees in writing) must be kept at the address of the Customer set out in the Order. The Customer shall not sell, assign, charge or create any sub-lease over or otherwise dispose of or abandon the Equipment.



- 5.11 Risk in the Equipment shall pass to the Customer on delivery. The Customer shall at all times insure the Equipment covering the full replacement value of the Equipment against all risks. The interest of Orbital Net in the Equipment shall be noted on the policy and, in the event of loss or damage to the Equipment shall be payable direct to Orbital Net.
- 5.12 Upon the discontinuation, whether under clause 4, clause 13 or otherwise, of any Service provided under this Agreement the Customer shall allow Orbital Net to take possession of the Equipment installed in the premises occupied by the Customer and for this purpose Orbital Net shall be entitled freely to enter upon any premises occupied by or under the control of the Customer. The Customer shall indemnify Orbital Net for the full cost of the Equipment in the event that repossession of the Equipment is rendered impossible by reason of total loss, unauthorised removal, refusal of access or for any other reason whatsoever.
- 5.13 The Customer shall be responsible for any costs and expenses incurred by Orbital Net and for its failure to allow Orbital Net to take possession of the Equipment when requested by Orbital Net including but not limited to any costs and expenses incurred in locating, repossessing or recovering the Equipment.

## **6. CUSTOMER COVENANTS**

The Customer undertakes and agrees:

- 6.1 To take all reasonable and proper care of the Equipment and to keep the same in good and serviceable condition (reasonable fair wear and tear excepted) and to indemnify Orbital Net against loss or damage to the Equipment howsoever caused.
- 6.2 To ensure that any instructions or manuals supplied by Orbital Net or the manufacturer of the Equipment are or will prior to the Equipment being brought into use be fully understood and well observed by the Customer and any person who will be responsible for use of the same.
- 6.3 To take such further steps as may be properly recommended by Orbital Net or the manufacturer of the Equipment, or may otherwise be necessary to ensure that the Equipment will be safe and without risk to health and safety when properly used by the Customer or authorised users.
- 6.4 Only to operate the Equipment and permit the Equipment to be operated in a proper manner and by persons who are competent to operate such Equipment.
- 6.5 Not to make or cause or permit to be made any alteration, amendment, modification or addition to the Equipment without Orbital Net's prior consent in writing.
- 6.6 To keep the Equipment suitably housed at the Customer's premises.
- 6.7 To permit Orbital Net and any person duly authorised by Orbital Net to enter on any land or premises in which the Equipment is installed to inspect and/or repair the Equipment.
- 6.8 To provide an authorised technical contact, authorised contact number, and pass phrase, to keep any records of such details in separate places and take all necessary steps to ensure the security of such records and to keep such information private and confidential and ensure, at all times, it (or they) do not become known to any unauthorised personnel.



6.9 To notify Orbital Net immediately if the Customer becomes aware of any change in circumstances which may lead it to believe that such information has become known to any unauthorised personnel. The Customer agrees that Orbital Net may, from time to time, suspend and/or change the Customer's pass phrase (at Orbital Net's discretion if Orbital Net feel that such step is in the interests of security).

6.10 To at all times comply with all terms and conditions relating to any telecommunications service which is required by the Customer to access the Services.

## **7. LEASED LINE SERVICES**

The terms and conditions in the following clauses shall apply to Customers who receive Leased Line Services only.

7.1 Save in relation to private WAN circuits, Orbital Net will provide the Customer with transit and routing services for e-mail and internet access.

7.2 Orbital Net will deliver internet protocol packets to the Customer network boundary only and will not be held responsible for, the transit, routing and delivery of IP packets to individual workstations on the Customer's network.

7.3 Orbital Net shall send the Customer, by email, online usage statistical reports detailing bandwidth used on the Circuit by the Customer at the frequency specified in the Order.

7.4 The Customer agrees that it will be responsible for use of the Leased Line Services and (unless Orbital has expressly agreed in writing to supply as part of the Equipment), for providing all additional equipment and/or services (including a PSTN line, if required) and for obtaining any permits and/or licenses which are necessary for connecting to, and accessing the Services.

7.5 If the Customer receives ADSL monitoring or xDSL backup as part of the Services, this will remain subject to availability, according to British Telecom's advertised coverage of exchanges in the UK. Without prejudice to any other term of this Agreement, Orbital Net shall not be liable to the Customer to the extent ADSL monitoring or xDSL backup is not available due to factors outside of Orbital Net's control. Where ADSL or xDSL is not available, Orbital Net may provide an alternative at Orbital Net's discretion.

## **8. PRICE AND BILLING**

8.1 The Order shall set out the charges in respect of (i) packaging, delivery, carriage and all other related charges or tax. All charges set out on the Order including the Service Fee are exclusive of VAT

8.2 The Customer shall pay any applicable VAT to Orbital Net on receipt of a valid VAT invoice.

8.3 Orbital Net may increase the Service Fee during the Minimum Term with immediate effect by written notice to the Customer where there is an increase in the direct cost to Orbital Net of supplying the relevant Equipment and/or Services which is due to any factor beyond the control of Orbital Net.



- 8.4 Orbital Net reserves the right to increase the Service Fee during the Minimum Term on or after the 1<sup>st</sup> of April each year in line with the annual percentage increase in the Consumer Price Index (CPI) or 3%, whichever is the highest.
- 8.5 Orbital Net may alter the Service Fee following the expiry of the Minimum Period by giving the Customer 30 days written notice.
- 8.6 Invoices and Statements of Account will be transmitted electronically via Orbital Net's network to the Customer's network or computer processor unless requested otherwise in writing.
- 8.7 Orbital Net shall bill the Customer the Service Fee in advance a calendar monthly rental fee e Rental for Service and Equipment will be counted from the Service Availability Date whether or not use is made of the Service and Equipment. Part months chargeable for the first or last rental period shall be charged on a pro-rata basis and will be add to the first full month for which the Service Fee is charged.
- 8.8 The Service Fee shall be paid by direct debit or BACS . **The Customer shall** notify Orbital Net as soon as possible of any change in the Customer's direct debit or bank account details.. Payment by cash or cheque will not be accepted.
- 8.9 The Customer shall pay all installation charges for installation of the Equipment, such installation charges shall be set out on the Order or as otherwise notified by Orbital Net to the Customer in writing. To the extent any additional installation work is required upon Orbital Net attending the premises, the Customer agrees to pay any and all additional charges subject to Orbital Net notifying the Customer in advance of any additional charges. If following written notification by Orbital Net, the Customer does not wish to proceed with the installation, Orbital Net will not incur any further costs associated with the installation. The Customer shall still be required to pay all charges incurred up to the date
- 8.10 Any billing discrepancies shall be presented to Orbital Net in detail and in writing within ten (10) days following the date of an invoice or Statement of Account. Any adjustment to the Statement of Account agreed to between Orbital Net and the Customer shall be included on the following Statement of Account.
- 8.11 At the discretion of Orbital Net interest compounded as specified under the Late Payment of Commercial Debts (interest) Act 1998 may be charged on any account in arrears. Orbital Net shall have the right to suspend any Service in the event that the Customer fails to pay within fourteen (14) days any account notified to the Customer as being in arrears. During any such period of suspension by Orbital Net the Rental Fees remain payable in full.
- 8.12 The Customer shall be liable for any costs and expenses incurred in enforcing any clause in this Agreement.
- 8.13 In the event the Customer delays the delivery of the Service(s) for more than 10 working days from the installation or activation date (which means the date that Orbital Net has proposed that installation can reasonably take place and if installation or activation of the service were completed then it would be the Service Availability Date per these terms), Orbital Net reserves the right to commence billing for the contracted service(s) from the 11th working day onward. This applies regardless of whether the service has been activated, providing the delay is not caused by Orbital





Net. Orbital Net will make reasonable efforts to engage with the Customer to resolve any delays; however, continued inaction or lack of response will not exempt the Customer from their contractual billing obligations.

## 9. DATA PROTECTION

9.1 Orbital Net may need to process Personal Data to provide the Services. Orbital Net will either be a Controller or Processor of the Personal Data processed under this Agreement, depending on the purpose of processing the Personal Data.

9.2 Both parties will comply with all applicable requirements of the Data Protection Laws. This clause 8.2 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under Data Protection Laws.

9.3 The Customer acknowledges and agrees that when Orbital Net is processing Personal Data as a Controller for the purposes of this Agreement, processing of the Personal Data shall be in accordance with Orbital Net's privacy policy. The Customer will ensure that it has all necessary consents and notices in place to enable the lawful transfer of Personal Data to Orbital Net for the duration and purposes of this Agreement.

9.4 In connection with any Personal Data which Orbital Net processes in capacity of a processor on behalf of the Customer (**Customer Data**), Orbital shall:

- 9.4.1 process that Customer Data only on the documented instructions of the Customer, unless Orbital Net is required by applicable law to otherwise process that Customer Data. Where Orbital Net is relying on applicable law as the basis for processing Customer Data, Orbital Net shall notify the Customer of this before performing the processing required by the applicable laws unless the applicable law prohibits Orbital Net from so notifying the Customer;
- 9.4.2 implement technical and organisational measures to protect against unauthorised or unlawful processing of Customer Data and against accidental loss or destruction of, or damage to, Customer Data;
- 9.4.3 ensure that any personnel engaged and authorised by Orbital Net to process Customer Data have been committed to confidentiality or are under an appropriate statutory or common law obligation of confidentiality;
- 9.4.4 assist the Customer insofar as is possible, and at the Customer's cost and written request, in responding to any request from a data subject and in ensuring the Customer's compliance with its obligations under Data Protection Laws with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 9.4.5 notify the Customer without undue delaying on becoming aware of a Personal Data breach involving the Customer Data;
- 9.4.6 at the written direction of the Customer, delete or return Customer Data and copies thereof to the Customer on termination of this Agreement unless Orbital Net is required by applicable law to continue to process that Customer Data; and
- 9.4.7 maintain records to demonstrate its compliance with this clause 9.4.

9.5 The Customer hereby provides its prior, general authorisation for Orbital Net to:

9.5.1 appoint processors to process the Customer Data, provided that Orbital Net:

- (i) shall ensure that the terms on which it appoints such processors comply with





- (ii) Data Protection Laws;  
shall remain responsible for the acts and omission of any such processor as if they were the acts and omissions of Orbital Net;

9.5.2 transfer Customer Data outside of the UK as required for the purpose of this Agreement, provided that Orbital Net shall ensure that all such transfers are effected in accordance with Data Protection Laws. For these purposes, the Customer shall promptly comply with any reasonable request of Orbital Net, including any request to enter into standard data protection clauses adopted by the Information Commissioner's Office from time to time.

## **10. LIABILITY**

10.1 In providing the Services, Orbital Net its directors, officers, employees or agents shall have no liability whatsoever with respect to the data which Orbital Net transports.

10.2 Except as otherwise provided herein, Orbital Net makes no representations or warranties of any nature whatsoever with respect to the Services. Orbital Net does not guarantee the continuous operation of the Services or Equipment. Nor can it be held liable to the Customer or any other person for any damage whatsoever due to Interruption of Service.

10.3 The Customer shall indemnify Orbital Net against all losses, damages, liability, costs (including legal fees) and expenses incurred by Orbital Net as a result of, or in connection with any:

10.3.1 third party claims resulting from defacing of or damage caused to the premises occupied by the Customer by reason of necessary works carried out to effect the installation of the Equipment;

10.3.2 claims resulting from the use or operation of any Circuit or any Equipment by the Customer in a manner which is contrary to this Agreement, or applicable laws or regulations.

10.4 Orbital Net shall not be liable for any of the following (whether direct or indirect):

- 10.4.1 loss of profit;
- 10.4.2 loss of corruption or data;
- 10.4.3 loss of use;
- 10.4.4 loss of production;
- 10.4.5 loss of contract;
- 10.4.6 loss of opportunity;
- 10.4.7 harm or reputation or loss of goodwill.

10.5 Orbital Net shall not be liable for consequential, indirect or special losses.

10.6 Subject to clause 10.7, Orbital Net's total liability to the Customer for all losses arising under or in connection with this Agreement shall not exceed 100% of the Rental Fees payable in the 12 month period preceding the date of the claim.

10.7 Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:

10.7.1 death or personal injury caused by negligence;



10.7.2 fraud or fraudulent misrepresentation;

10.7.3 any other losses which cannot be excluded or limited by applicable law.

## **11. FORCE MAJEURE**

Neither party shall have any liability under, or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from Force Majeure. The party subject to the Force Majeure event shall promptly notify the other party in writing when such the event causes a delay or failure in performance and when it ceases to do so. If the Force Majeure event continues for a continuous period of more than 30 days, either party may terminate the Agreement by written notice to the other party.

## **12. INTELLECTUAL PROPERTY**

12.1 To the extent there is any Intellectual Property Rights subsisting in the Equipment and/or the Services, Orbital Net and its licensors shall retain ownership of all Intellectual Property Rights in the Equipment and Services.

12.2 Orbital Net grants the Customer a fully-paid up, worldwide, non-exclusive, royalty free licence during the Term to use the Equipment and Services.

## **13. CHANGES TO THE SERVICES**

13.1 The Customer may request, by giving Orbital Net notice, a change to the Services at any time after the Service Availability Date and where Orbital Net agrees to the changes, the Customer will pay any additional charges notified to the Customer by Orbital Net.

13.2 Orbital Net has no obligation to proceed with any changes to the Services requested in accordance with clause 13.1.

## **14. MODIFICATION OF THE TERMS**

14.1 Orbital Net reserves the right to change these Terms from time to time.

14.2 In the event that Orbital Net makes any changes to these Terms it shall provide the customer with 30 days' notice. Aside from any changes to the Service Fee pursuant to clauses 8.3 and/or 8.4, if the Customer can evidence that such changes represent a material detriment to it, the Customer may terminate this Agreement and it will only be liable for the Rental Fee to the date of expiry of such termination. If the Customer seeks to terminate under this clause, it must provide notice of termination within 14 days of having receiving Orbital Net's notice under this clause.

14.3 Where the Customer is a business comprising of 10 employees or fewer, if Orbital Net serves a notice under clause 14.2 of these Terms, unless it is:

14.3.1 exclusively for the benefit of the Customer;

14.3.2 purely administrative and has no negative effect on the Customer; or

14.3.3 directly imposed by law



and the Customer does not agree with the changes, it may terminate the Agreement within one month of receiving such notice. If the Customer chooses to terminate the Agreement pursuant to this clause, it will not be liable for any additional charges aside from the Rental Fee payable to the date of termination.

## **15. TERMINATION OF THE AGREEMENT**

15.1 Without affecting any other right or remedy available to it, Orbital Net shall have the right to terminate the Services and the Agreement forthwith with immediate effect by giving written notice in the following events:

15.1.1 If the Customer fails to pay within twenty one (21) days any account notified to the Customer as being in arrears.

15.1.2 If the Customer uses or allows the use of the Services of Orbital Net for a purpose or in a manner which is contrary to this Agreement or any applicable laws or regulations.

15.1.3 If the Customer deliberately, negligently, or in carrying out its own installation, causes the loss of or damage to the Equipment.

15.1.4 If the Customer fails to comply with, or commits any breach of this Agreement.

15.2 Orbital Net shall have the right to terminate the Services and the Agreement without prior notice and remove its Equipment from the premises owned or occupied by the Customer in which the Equipment is installed if the Customer takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets, becoming bankrupt or ceasing to carry on business.

15.3 The termination of the Services and the Agreement by Orbital Net does not discharge the Customer from its obligation to pay any amount which is owing pursuant to this Agreement at the time of such termination of service, including all installation fees.

15.4 If the Customer terminates the Agreement prior to expiry of the Minimum Period or relevant Renewal Period, the Customer shall pay to Orbital Net the Service Fees outstanding and due to the end of the Minimum Period or Renewal Period within 30 days of such termination. . The parties agree that the monies payable pursuant to this clause 15.4 are fair and are not excessive, extravagant, unconscionable or oppressive in the circumstances.

## **16. CANCELLATION AND SUSPENSION**

16.1 If the Customer cancels or delays a request for Service after entering into this Agreement, but prior to the Service Availability Date, the Customer shall pay all of the costs incurred for the purposes of the implementation of this Agreement. Implementation activities are considered to have begun once the Order is accepted in accordance with clause 3.4.

16.2 To request to end the Services at any time after expiry of the Minimum Period, the Customer must email [ceases@orbital.net](mailto:ceases@orbital.net) with the request, on receipt Orbital will provide a cease form within 48



hours in a digitally signable format. This must be completed and returned to us. The date of cancellation will apply from the date on which the signed cease form has been returned to Orbital Net. Please provide it by 3pm on any working day to be processed the same day, after 3pm cease requests will be processed the next working day.

**16.3 Orbital Net may restrict, suspend or disconnect any, or all of the Services if:**

- 16.3.1 its network breaks down or needs maintenance, enhancement or emergency work (Orbital Net will provide as much notice as reasonably possible to the Customer in the event of such works);
  - 16.3.2 it is no longer able to provide a Service (or any part of it);
  - 16.3.3 it is required to do so for legal or regulatory reasons or to comply with an order, instruction or request of Government, an emergency services organisation or other competent administration, legal or regulatory authority;
  - 16.3.4 to make changes to the Service as requested by the Customer or notified by Orbital Net to the Customer;
  - 16.3.5 it believes the Service or the Customer's credit or debit card or other payment facilities have been used fraudulently;
  - 16.3.6 the Customer breaches, or Orbital Net reasonably suspects that the Customer has breached, a material obligation under this Agreement (including failure to pay the Rental Fee within 7 days of a reminder) and, the Customer fails to remedy such breach within 7 days where it reasonably ought to be able to;
  - 16.3.7 the Customer does not make any payment to Orbital Net when it is due and fails to make payment within 7 days of Orbital Net reminding the Customer that payment is due;
  - 16.3.8 the Customer or anyone it authorises to deal with Orbital Net on its behalf acts in a way towards Orbital Net staff or agents which it reasonably considers to be inappropriate.
- 16.4 Where Orbital Net suspends, restricts or disconnects a Service, the Agreement will continue (unless terminated in accordance with clause 15 and unless the suspension is under clauses 16.3.1, 16.3.2 or 16.3.3) Orbital Net may require the Customer to pay its fees and reasonable costs for suspending, restricting or disconnecting the Service and resuming it. The reconnection fee payable under this clause can be found in the Price Guide.

**17. SEVERABILITY**

If any provision of the Agreement is declared to be invalid or unenforceable by any competent authority, such finding shall not affect the validity of the remaining provisions of the Agreement unless deletion of the provision declared to be invalid or unenforceable renders the providing of the Services hereunder impossible.

**18. VARIATION**



No variation of the Agreement shall be valid or effective unless it is in writing and is duly signed or executed by, or on behalf of, each party.

## **19. WAIVER**

- 19.1 No failure, delay or omission by Orbital Net in exercising any right, power or remedy provided by law or under the Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 19.2 No single or partial exercise of any right, power or remedy provided by law or under the Agreement by Orbital Net shall prevent any future exercise of it or the exercise of any other right, power or remedy by Orbital Net.

## **20. THIRD PARTY RIGHTS**

Except as expressly provided for in this Agreement, a person who is not a party to the Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Agreement.

## **21. CONFIDENTIALITY**

- 21.1 Each of the parties shall keep confidential all Confidential Information of the other party and shall only use the same required to perform this Agreement and/or receive the Services. The provisions of this clause 21.1 shall not apply to:
- 21.1.1 any information which was in the public domain at the date of the Agreement;
  - 21.1.2 any information which comes into the public domain subsequently other than as a consequence of any breach of the Agreement or any related agreement;
  - 21.1.3 any information which is independently developed by the Customer or Orbital Net without using information supplied by the other party; or
  - 21.1.4 any disclosure required by law or a regulatory authority or otherwise by the provisions of the Agreement.
- 21.2 This clause shall remain in force for a period of 5 years from the date of this Agreement.

## **22. NOTICE**

- 22.1 All notices required or permitted to be given under the terms of this Agreement shall be in writing and sent to the Customer at its address specified in the Order, and in the case of notices sent to Orbital Net at its address specified in the Order.
- 22.2 Notices may be given, and are deemed received:
- 22.2.1 by first class registered mail: at 9.00am on the second working day after posting; or
  - 22.2.2 by private courier or by hand: on receipt of a signature at the time of delivery; or
  - 22.2.3 by Email: at the time of transmission.
- 22.3 Either party may change its address for notice by giving notice in the appropriate manner.

## **23. GOVERNING LAW AND JURISDICTION**



- 23.1 This Agreement and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed and interpreted according to the laws of England and Wales.
- 23.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Agreement, its subject matter or formation (including non-contractual disputes or claims).