

MailDefender

These terms and conditions (the "Conditions") govern your use of the Service (as defined below); the content, features and functionality of the Service are described on the Order Form and at: <http://www.demon.net/demon/products/hardware/security/maildefender>. The Service is supplied by THUS Limited, (Company Number: 6798969) whose registered office is at Waterside House, Waterside Park, Longshot Lane, Bracknell, Berkshire RG12 1XL (the "Company").

Terms and Conditions (the "Conditions")

1 DEFINITIONS

1.1 In these Conditions, the following words and expressions shall have the following meanings:

- "Agreement" means the Agreement between the Customer and the Company for the provision of the Services, incorporating these Conditions, your Order Form, and/or the Welcome Email and the applicable AUPs;
- "Agreement Date" means the the date of last signature of this Agreement by all of the parties to the Agreement;
- "Authorised User" means the online data access services provided, at our discretion, to the Customer to enable the Customer to access via the Internet the Customer's current and accumulated rolling twelve (12) months of preceding invoices, as derived from financial systems, and comprising electronic billing facilities;
- "Business Days" means Monday to Friday between the hours of 09:00 and 17:00, excluding public holidays in the UK and January 2nd (Scotland only);
- "Charges" means any of the charges payable by the Customer for the provision of the Services pursuant to this Agreement;
- "Company System" means the telecommunication system and network used by the Company in accordance with the General Conditions;
- "Customer" means the person named as the customer in the Agreement;
- "Demon" means a brand of the Company utilised by the Company in the provision of certain of its products and services;
- "e-Bill" means the online data access services provided, at the discretion of the Company, to the Customer to enable the Customer to access via the Internet the Customer's current and accumulated twelve (12) months of historic invoices and providing electronic billing facilities;
- "Email" means any electronic message generated by an End User scanned by the Service generally in a business to business environment over the Internet;
- "End Users" means the ultimate end user of the Service as permitted under a contract for the provision of the Service between the Company and the specific Customer responsible for those End-Users;
- "General Conditions" means the general conditions of entitlement as set out in the notification issued by the Director General for Telecommunications on 22nd July 2003, in accordance with section 48(1) of the Communications Act 2003, pursuant

	to section 45 of said Act, as may be amended from time to time;
"Initial Period"	means the initial period in respect of each Service provided under this Agreement which shall be no less than twelve (12) months from the relevant Service Commencement Date;
"Internet"	means, in relation to e-Bill, the interconnected system of networks that connects computers around the world through an established protocol enabling the transmission and exchange of electronic information and data;
"Known Viruses"	means Viruses that have been listed on the anti-virus web site 'Sophos' http://www.sophos.com for at least eight (8) minutes prior to the time of scanning;
"LoginID"	means, in relation to e-Bill, the login identity allocated to each Authorised User by the Company;
"Premises"	means your premises specified in the Order Form where the Service is to be received;
"Service"	means the services to be provided by the Company as set out in the Order Form and as may be amended from time to time pursuant to Clause 20 and Service shall be construed accordingly;
"Service Commencement Date"	means the date(s) the Company advises the Customer that the Services are available;
"Software"	means the anti-Virus and anti-Spam software licensed to and used by the Company in connection with the Services from time to time;
"Spam"	means unsolicited commercial email or bulk email in which the recipient's personal identity and the content are irrelevant as the message is equally applicable to multiple recipients, or the recipient has not granted deliberate, explicit and still-revocable permission for it to be sent, or the transmission and receipt of the message appears to the recipient to give a disproportionate benefit to the sender;
"Virus"	means a piece of code usually (but not necessarily) disguised as something else that causes some unexpected and, for the victim, usually undesirable event which is designed so that it may automatically spread to other computer users; the term "Virus" shall also be deemed to include reference to worms, Trojan horses and other nuisance causing or otherwise harmful applets;
"Welcome Email"	means the email sent to you by the Company following your Order for the Service being accepted, which contains details and information relating to the Service;
"we" "us" and "our"	means the Company and belonging to the Company as the case may be; and
"you" and "your"	means the Customer who orders the Service and belonging to the Customer

as the case may be.

- 1.2 These Conditions, together with the THUS Acceptable Use Policy ("AUP") (found at: <http://www.demon.net/helpdesk/aup>), explain our responsibilities to you and your responsibilities to the Company and to other users of the Service ("Users"). In particular, the AUP outlines what we consider to be unacceptable use of the Service by our customers so that we can take appropriate steps against abusers of the Service. The Company reserves the right to amend the AUPs at any time in accordance with the provisions of Clause 20. You shall be responsible for ensuring that you comply with the latest AUP.
- 1.3 Reference to any statute shall be deemed to include any amendment, replacement or re-enactment thereof for the time being in force and to include any bye-laws, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made thereunder.
- 1.4 Reference to words importing the singular only also includes the plural and vice versa where the context requires.
- 1.5 The headings in this Agreement are for ease of reference only and shall not be taken into account in the construction or interpretation of this Agreement.

2 DURATION

- 2.1 This Agreement shall come into effect on the Agreement Date and shall continue in full force and effect for the Initial Period and thereafter shall continue automatically unless and until terminated in accordance with Clause 10 of these Conditions or such other Clause as may be applicable in the circumstances.
- 2.2 The Company shall use its reasonable endeavours to provide the Service to you by the Service Commencement Date or such later date as may be notified to you by the Company, subject to you obtaining (at your own expense) all consents, approvals, servitudes, rights of way necessary for the provision of the Services to the Customer Premises.
- 2.3 In the event that the Company agrees to provide new or additional services or change the Services under this Agreement a new minimum term of twelve (12) months shall apply to each new, additional or changed services from the new service commencement date as advised by the Company. Please note that no such amendment or variation will be possible in the twelve (12) month period following the Agreement Date.
- 2.4 The Company shall provide the Service to you according to the terms of this Agreement and with the reasonable skill and care of a competent telecommunications and internet service provider. The Company may obtain services from a Carrier in order to supply the Service to you. You accept that it is technically impracticable to provide services which are entirely free of faults and the Company does not undertake to do so. You also accept that you may not be able to receive the Service due to certain technical restrictions. If such technical restrictions are discovered after the Agreement Date, the Company has a right to terminate the Agreement in accordance with Clause 10.2.3.

3 CHARGES

- 3.1 The Company shall provide you with the Service, and you agree to pay, without any deduction, withholding or set-off whatsoever, to the Company the Charges. Payment must be made using the method specified by you when completing the Order Form.
- 3.2 The Company shall be entitled to review the Charges on notice to you from time to time. In the event that any proposed increases to the Charges are not acceptable to you will have the right within seven (7) days of such notice from the Company to terminate this Agreement by one month's notice in writing stating the reason for the termination in accordance with the notice process set out in Clause 15.
- 3.3 The Company shall issue or make available invoices to the Customer at the intervals and in the manner as set out in this Agreement. At its discretion the Company may issue paper, online or other manner of invoices to the Customer, by post to the Customer's billing address (paper invoices), or by email notification to the Customer's email address (online invoices) notifying the Customer of the availability of the invoice on the Internet. Payment shall be due within thirty (30) days of issue or notification of availability of the invoice to the Customer or as otherwise specified in the Agreement, regardless of whether the Customer has accessed the online invoice or read the email notification (the "Due Date").
- 3.4 Acting in good faith you shall notify the Company in writing of any disputed invoice amount within ten (10) days of the date of the invoice. If you are a Business Customer and you fail to pay the Company any sum due pursuant to the Agreement you will be liable to pay interest to the Company on such sum from the Due Date at the annual rate of 3% above the base lending rate from time to time of The Royal Bank of Scotland plc, accruing on a daily basis until payment is made, whether before or after any judgement.
- 3.5 You shall not be entitled to any reduction in the Charges in the event that you do not use all or any part of the Services.
- 3.6 All amounts payable by you are exclusive of Value Added Tax and you shall pay in addition any Value Added Tax applicable thereto from time to time.
- 3.7 If the Company carries out work in response to a fault in the Service reported by you and following such work the Company determines that (1) there is no fault found in the Service or (2) the fault was due to your act or omission, then the Company shall be entitled to charge you for any such work carried out.
- 3.8 Save in the case of demonstrable error all charges shall be calculated in accordance with data recorded or logged by, or on behalf of, the Company.

4 ACCESS

- 4.1 This Agreement does not include include the provision of telecommunications services necessary for connection to the Service. You are responsible for making a separate application for the appropriate service and for complying with the conditions applicable thereto.

5 SERVICES

- 5.1 The Company will filter Known Viruses and will filter Spam from the Customer's inbound Email. If the

Customer so elects, the Company will scan the Customer's outbound Email for Known Viruses that are sent by the Customer inadvertently. The Company cannot guarantee protection of the Services against unauthorised interruption or interception by third parties or that any of the Services shall be error free or uninterrupted. The Company does not warrant or guarantee that such systems will prevent all undesired email (including unsolicited commercial email) from being delivered.

- 5.2 The Company will use reasonable endeavours to maintain and update the Software as soon as the Company's licensors make any appropriate upgrade or enhancement to the Software.
- 5.3 The Customer is responsible for the content of all Emails including attachments the company scans on the Customer's behalf. The maximum size of any single Email is 35Mb.
- 5.4 The company recognises and confirms that the content of all e-mails scanned on the Customer's behalf by the Software is confidential and the Company will use its reasonable endeavours to keep confidential information received by it from the Customer or for the Customer in connection with the Service. However, the Company reserves the right to disclose such information (to the extent the Company considers reasonably necessary) for the purposes of:
 - 5.4.1 maintaining and improving the performance and the integrity of the Software and the Company System;
 - 5.4.2 observing, studying and/or testing the functionality of the Service;
 - 5.4.3 complying with all regulatory, legislative or contractual requirements; and
 - 5.4.4 making available to the Company's licensors of the Software any information passing through the Company System which may be of interest to the Company's licensors solely for the purpose of further developing and enhancing the Software and the Company reserves the right to retain copies of the information entering the Company System as may be necessary from time to time for such purposes.
- 5.5 You agree that your use of the Service is at your sole risk. The Company make no warranty that the Service will meet your requirements.
- 2.6 The Service is provided to you on an "as is" and "as available" basis and to the fullest extent permitted by applicable laws we exclude all and any warranties and conditions of any kind, whether express or implied, in respect of the Service and any content or data obtained or downloaded from it. This Clause does not affect any statutory or other rights available at law to you.

6 VIRUSES

- 6.1 Virus infected Emails which are stored on the quarantine server will be deleted after a period of twenty one (21) days. Should the Customer require the Company to transmit a Virus infected Email to the Customer from the holding pen, this will be done at the Customer's risk and the Company will take no responsibility whatsoever for any loss, corruption or failure of any data or systems. The Company will under no circumstances knowingly transmit Virus infected Emails to third parties on the Customer's behalf.
- 6.2 It is the inherent nature of Viruses that they are developed faster than the software developed to curb them. Therefore, the Company does not warrant, represent or guarantee in any way whatsoever that the Software will ensure that no Viruses are contained in Emails sent by or to the

Customer.

- 6.3 The Customer recognises that information sent to and from the Customer will pass through the Company's System and accordingly the Customer agrees that it will:
- 6.3.1 comply with all relevant legislation applicable to use of the internet; and
 - 6.3.2 conform to the protocols and standards published on the Internet from time to time and adopted by the majority of Internet users.
- 6.4 Customers may be required by the Company to purchase additional End User licenses to maintain an average monthly inbound Email volume below the equivalent of 20Mb per licensed End User. This is calculated across the entire user base so that a high volume End User can safely use the spare capacity of a low volume End User.
- 6.5 The Company will use its reasonable endeavours to maintain the Service. The service is subject to change from time to time. If any part of the Service through no fault on the Company's part cannot be used by the Customer, or where a failure, suspension or withdrawal of all or part of the Service is beyond the Company's reasonable control, compensation will not be payable. Should all of the Service be unavailable for any other reason for a period of twenty four (24) consecutive hours or more and during that time the Company was unable to provide suitable alternative services, we will extend the period for which you have paid, free of charge, for the same number of part or full day(s) that the Service remains unavailable.

7 INFORMATION

- 7.1 On request by the Company, you shall provide the Company with any information which the Company reasonably requires in order to provide the Services. The Customer hereby authorises the Company to make all necessary changes to the Customer's DNS records for the purpose of making the Service available to the Customer.

8 YOUR USE OF THE SERVICE

- 8.1 You must **NOT** use the Service:
- 8.1.1 in a way that does not comply with the Agreement or any legislation or applicable licence or that is in any way unlawful or fraudulent or, to your knowledge, has any unlawful or fraudulent purpose or effect; or
 - 8.1.2 in breach of any reasonable and lawful instructions the Company might give to you from time to time which are necessary in the interests of health, safety, the quality of the Service, or the quality of the Carrier's telecommunications services; or
 - 8.1.3 in connection with the carrying out of a fraud or criminal offence against any public telecommunications operator; or
 - 8.1.4 to send, knowingly receive, encourage the receipt of, upload, download, use or re-use any material which is abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights or which may contain viruses or other similar programs, or which causes overloads to the Company System; or
 - 8.1.5 to send or procure the sending of unsolicited advertising or promotional material; or

8.1.6 attempt to use the Service in any way that modifies, decompiles or reconfigures the Service or any Equipment (if relevant) or software or copy any manual or documentation relating to the Service, without the Company's prior written consent, except as set out in this Agreement;

8.2 You shall indemnify the Company against any claims or legal proceedings which are brought or threatened against the Company by a third party because the Service is used by you in breach of Clauses 8.1.1 to 8.1.6 above. To maintain the quality of the Service for other users, the Company reserve the right to block certain types of traffic without notice where they appear to contravene Clause 8.1.

8.3 You shall be responsible for insuring against all loss of or damage to data stored on or transmitted using the Service or the Company System.

8.4 You shall be responsible for adopting appropriate security measures for the protection of computer systems and the Company shall not be liable to you for any loss or damage that you suffer as a result of any virus or other hostile computer programme being introduced into your computers or computer systems as a result of your use of the Service and/or the Company System.

9 BREACH OF CONDITIONS

9.1 We shall investigate any suspected or alleged breach of this Agreement or any suspected compromise to our network systems or security and in doing so we will act reasonably and fairly at all times. Without limitation, particular examples of breaches which are incapable of remedy include jeopardising or compromising the security or integrity of our network and serious breach of the AUP, including, for example, the posting or transmission of defamatory content through or in connection with the Service. You expressly authorise us to use your personal data and other Account information, without limitation, in connection with any such investigation, including by disclosing it to any third party whom we consider has a legitimate interest in any such investigation or its outcome.

9.2 We reserve the right to take any action we deem appropriate and proportionate to the breach of this Agreement.

9.3 If we decide that you have breached the Agreement, we will use reasonable endeavours to ensure that you are made aware of the breach without suspension or termination of the Service. However it may be necessary, due to the severity of the breach, to suspend or end the Service while details of the breach are investigated further. We reserve the right to suspend the Service or terminate the Agreement at our sole discretion without refund, and make an additional charge for all reasonable costs incurred due to investigating and dealing with the misuse and/or blocking access to any component(s) of the Service.

10 TERMINATION

10.1 Without prejudice to the rights and remedies of the Company and the Customer under this Agreement either party may terminate this Agreement forthwith in the event that:

10.1.1 the other party is in material breach of this Agreement (including any failure to pay any sum due hereunder) and (in the case of remediable breach) fails to remedy the breach within 28 days of receiving notice to that effect from the other party; or

- 10.1.2 either party becomes insolvent or has a receiving order made against it or commences to be wound up (not being a members voluntary winding up for the purpose of a solvent reconstruction or amalgamation) or grants a trust deed on behalf of its creditors or any of them; or
 - 10.1.3 the Company's entitlement to provide electronic communications services and associated facilities is suspended or restricted to such an extent that it is not permitted to provide the Services.
- 10.2 The Company may end this Agreement immediately upon written notice to you if:
- 10.2.1 it becomes unlawful for the Company or the Carrier supporting the Service to continue to provide the Service or the Company or the Carrier supporting the Service is required to cease the Service by a competent regulatory authority; or
 - 10.2.2 the Carrier supporting the Service ceases to do so for whatever reason or materially changes the terms of its provision of telecommunications services to the Company for the Service beyond the reasonable control of the Company;
 - 10.2.3 it transpires following the Agreement Date that, for any reason outwith the control of the Company, the Services will not be able to be provided to you. In the event of termination in accordance with this Clause 10.2.3, the Company shall repay to you any fees which you have paid in advance for the Services;
- 10.3 Either party may end this Agreement after the Initial Period by giving the other party not less than thirty (30) days prior written notice, such notice not to expire before the end of the Initial Period. Other than in accordance with Clauses 3.2, 10.2, 11.1, 12.8 and 20.2 if you wish to end this Agreement or any particular Service(s) provided thereunder before the end of the Initial Period, the Company shall be entitled to invoice you in relation to the Charges which would have been payable by you for the balance of the Initial Period in relation thereto. If you move from your Premises, the Company shall be entitled to invoice you for the Charges which would have been payable by you for the balance of the Initial Period at the Premises. If you wish to receive the Service at a new location, you are required to start a new contract for Service at your new premises.
- 10.4 Without prejudice to its other rights in terms of this Clause 10, the Company may, at its sole discretion elect to suspend provision of the Services forthwith until further notice if the Company is entitled to terminate or if you are otherwise in breach of the terms of this Agreement or if the Company is obliged to comply with any relevant order or instruction of the Government or other regulatory authority or if any wayleave or other consent required for the purposes of providing the Services is withdrawn, revoked or otherwise ceases to have effect.
- 10.5 You shall continue to be liable to pay the Charges during such suspension if the Service is suspended pursuant to your default.
- 10.6 You shall reimburse the Company in respect of all costs and expenses incurred in carrying out such suspension and re-commencing the provision of Services thereafter save where such suspension is required as a result of any breach of this Agreement by the Company.
- 10.7 Your right to use the Service shall immediately terminate when this Agreement comes to an end.

11 RIGHT TO CANCEL

- 11.1 The Service may be cancelled prior to the Service Commencement Date by the serving of written notice:
- 11.1.1 by the Customer subject to the Company being entitled to charge the Customer for any abortive work done or costs incurred by the Company in installing and provisioning the Services;
 - 11.1.2 by the Company pursuant to Clause 12.7.

12 LIMITATION ON LIABILITY

- 12.1 The Company's liability in contract, tort (or delict) or otherwise (including liability for negligence) under or in connection with this Agreement is limited to £10,000 for any event or series of related events and £25,000 for all events in any consecutive period of 12 months.
- 12.2 Except as expressly set out in this Agreement, all warranties, conditions, undertakings or terms implied by or expressly incorporated as a result of custom and practice, statute, common law or otherwise are hereby expressly excluded so far as permitted by law.
- 12.3 Nothing in this Agreement shall exclude or limit the liability of the Company for death or personal injury arising as a result of the Company's negligence or for fraudulent misrepresentation.
- 12.4 The Customer is solely responsible for any liability arising out of any content provided by the Customer and/or any material to which other users can link to through such content.
- 12.5 Any data included in the Equipment upon installation by the Company is for testing use only and the Company hereby disclaims any and all liability arising therefrom.
- 12.6 The Company shall not be liable to you in any circumstances for any loss of revenue, loss of profit, loss of use, loss of contract or loss of goodwill or any indirect or consequential loss including without prejudice to the generality of the foregoing loss or corruption of data transmitted over the Company System or otherwise arising out of or in connection with this Agreement.
- 12.7 Neither party shall be liable for any breach of this Agreement or any delay in performance of its obligations (other than the obligation to pay) to the extent that such breach is caused by circumstances beyond that party's reasonable control including Acts of God, fire, lightning, explosion, war, terrorism, disorder, flood, industrial disputes (whether or not involving their employees), extremely severe weather or acts of local or central Government or other competent authorities. If either party is affected by circumstances beyond its reasonable control, it shall notify the other party and shall use reasonable endeavours to overcome the effects.
- 12.8 If any of the events detailed in Clause 12.7 continue for more than three (3) months either party may serve notice on the other terminating this Agreement without further liability.
- 12.9 You shall be liable for and shall fully indemnify the Company in respect of any business rates or similar liabilities and/or charges imposed by any competent authority which arise in respect of your use of the Services.

13 INDEMNITY

- 13.1 You agree to indemnify and hold us harmless for all claims and associated costs, damages or expenses that may arise from (a) any breach of the Agreement by you including without limitation a breach of the THUS AUP; and (b) the Customer's use of the Service.
- 13.2 If you are a Consumer, you must indemnify us against any claims and associated costs, damages or expenses arising from any breach by you of this Agreement including without limitation a breach of the THUS AUP (including, but not limited to claims in respect of defamation, breach of copyright or other intellectual property right infringement) which are brought or threatened against us by another person where you are at fault

14 DATA PROTECTION/PERSONAL DETAILS

- 14.1 We may retain the data which you submit on a completed Order Form or which you otherwise provide during the course of the Agreement, and you authorise us to use your personal data, for the following purposes:
- 14.1.1 provision of the Service to you;
 - 14.1.2 keeping of a record for a reasonable period after termination of your Service;
 - 14.1.3 operation and enforcement of the Agreement;
 - 14.1.4 technical maintenance;
 - 14.1.5 providing you with information about other services we offer, subject to your right to 'opt out' of receiving such information on the Order Form or by exercising this right when placing an Order by telephone or subsequently;
 - 14.1.6 transferring it to another company in the event of a sale of the Company;
 - 14.1.7 legal compliance including disclosing it to any third party who we reasonably consider has a legitimate interest in any such investigation or its outcome; and
 - 14.1.8 transferring it to RIPE NCC as part of a general requirement for provision of these services within Europe.
- 14.2 Both parties shall comply with applicable data protection legislation with respect to any personal data supplied in connection with the Service. Where applicable, the Customer shall inform its employees of the processing of personal data by the Company and shall ensure such employees have consented to such processing. The Customer warrants that all such personal data are accurate and complete.
- 14.3 You may be subject to a standard credit check. The information that you provide may be disclosed to a licensed credit reference agency (which will retain a record of the search) and you authorise the Company to make such disclosures.

15 NOTICES

- 15.1 Any notice to be sent to you will be sent to the address which you provide when submitting your Order and as contained on the Welcome Letter or to the email address: postmaster@sample.demon.net (where 'sample' is the hostname) or to such other address as you shall have given written notice of as the billing address or to such other address or contact details as you may notify the Company of from time to time.

15.2 All notices required to be given by the Customer to the Company shall be deemed sufficiently given when forwarded by prepaid registered mail, by facsimile or hand delivered to:

Customer Services, THUS Limited – Demon, 1-2 Berkeley Square, 99 Berkeley Street, Glasgow G3 7HR. Attention: Customer Relations Team; or

by email to: customerservice@demon.net

or such other address as the Company notifies to the Customer.

15.3 Such notices shall be deemed to have been received three (3) Business Days after mailing if forwarded by mail, and the following business day if forwarded by facsimile, or hand-delivered or when dispatched if sent by email provided that if any such notice, demand or other communication would otherwise be deemed to be given or made outside a Business Day, such notice, demand or other communication will be deemed to be given or made on the next Business Day.

16 ASSIGNMENT

16.1 The Company reserves the right to assign or sub-contract any or all of its rights and obligations under this Agreement without your further consent to such assignment or sub-contract.

16.2 You may not sell, lease, sub-licence, assign or otherwise transfer, whether in whole or in part, by operation of law or otherwise, the Agreement or any rights or obligations therein without the prior written consent of the Company.

17 PROPRIETARY RIGHTS

17.1 All title, interests, and rights (including intellectual property rights) in the Service remain in the Company and/or its suppliers. You acknowledge such title, interest and rights and you shall not take any action to jeopardise, limit or interfere in any manner with the Company's (or any third party supplier's) title, interests or rights with respect to the Service including, but not limited to, using the Company's trademarks or tradename.

17.2 Title and related rights in any content accessed through the Service are the property of the applicable content owner and are protected by applicable law. The Agreement does not give the Customer any interests or rights in such content.

18 DOMAIN NAMES REGISTRATION SERVICE

18.1 Where the Service includes registration of one or more domain name(s), you agree to be subject to the Domain Name Registration Terms and Conditions. The Company reserves the right to amend and/or update the Domain Name Registration Terms and Conditions from time to time in accordance with the provisions of the Domain Name Registration Terms and Conditions. You can find the most up to date version at the following web address: <http://www.demon.net/helpdesk/aup/domains.shtml>.

You shall be responsible for ensuring that you comply with the latest version of the Domain Name Registration Terms and Conditions.

19 E-BILL

- 19.1 For e-Bill, the Customer's Authorised User will be allocated by a LoginID and password by the Company to enable access to e-Bill.
- 19.2 Authorised Users shall not share use of e-Bill or any part of it with any other person including, if the Authorised User is a company, any person who is an officer of or contracted to the company, whether directly or indirectly, other than in accordance with these Conditions.
- 19.3 Authorised Users must not operate e-Bill in a way that does not comply with these Conditions or with any legislation or applicable licence or that is in any way unlawful or fraudulent, or to their knowledge has any unlawful or fraudulent purpose or effect, or in connection with the carrying out of a fraud or criminal offence against any telecoms operator, or in a way that does not comply with the reasonable instructions given by the Company, or operate or attempt to operate e-Bill in any way that modifies, decompiles or reconfigures the facility or any software or hardware, or copy any manual or documentation relating to e-Bill, without the prior written consent of the Company.
- 19.4 Authorised Users shall maintain the security of their allocated LoginID and password and will not disclose such to any third party for any purpose other than in accordance with these Terms and Conditions. The Authorised User shall immediately notify the Company and change any password which may have been compromised, or is reasonably believed to have been so.

20 ENTIRE AGREEMENT AND RIGHT TO AMEND

- 20.1 This Agreement represents the entire understanding between the parties in relation to the subject matter hereof and other than in relation to any fraudulent misrepresentations supersedes all other agreements and representations made by either party whether oral or written.
- 20.2 Each of the parties acknowledges and agrees that in entering into this agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this agreement or not) other than as expressly set out in this agreement as a warranty. The only remedy available to it for breach of the warranties shall be for breach of contract under the terms of this Agreement. Nothing in this sub-clause shall, however, operate to limit or exclude any liability for fraud.
- 20.3 The Company reserves the right to add to or amend the Conditions and/or any other aspect of this Agreement at any time. If the Company is going to make an amendment, it will provide the Customer with at least thirty (30) days notice of any amendment before the amendment is to take effect. In such an event, reasonable notification will be given by the Company by the posting of any amended Conditions or AUP on the Company Website. It is the responsibility of the Customer to regularly check for any such notification.
- 20.4 If the Company exercises its right to amend this Agreement in accordance with Clause 13.3, the Customer shall be entitled to terminate this Agreement by giving to the Company at least seven (7) days notice, provided that the amendment is (a) to the detriment of the Customer, and (b) not an amendment made by the Company in response to a legal or regulatory change. The Customer's notice to terminate must be received by the Company before the amendment takes effect and must be provided in

accordance with this Clause 13.4. If the Customer does not exercise this right to terminate, the Customer is deemed to have accepted the amendment, whether or not the Customer continues to use the Service after the amendment takes effect.

20.5 If the Customer asks the Company to make a change to the Agreement, including without limitation a change to the Conditions, the Company may ask you to confirm the request in writing. If the Company agrees to such a change, the Agreement will be amended from the date when the Company confirms the change in writing to you, unless otherwise agreed between the parties in writing.

21 NO WAIVER

21.1 Failure or delay by either party to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion.

21.2 In the event either party agrees to waive a breach of this Agreement by the other party, that waiver is limited to that particular breach.

22 LAW AND ARBITRATION

22.1 The Agreement shall be governed by and construed in accordance with English law and the parties agree to submit to the non-exclusive jurisdiction of the English Courts.

22.2 The parties shall use their reasonable endeavours to resolve any dispute arising under this Agreement by direct negotiations between the parties. If any dispute is not resolved within fourteen (14) days through direct negotiation the parties will attempt to resolve the matter through the Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre for Dispute Resolution. If the matter has not been resolved by an ADR procedure within thirty (30) days, or if either party will not participate in an ADR procedure within such thirty day period, the dispute shall be referred to litigation in accordance with Clause 23.1.

22.3 Notwithstanding the foregoing it is acknowledged and agreed that either party shall be entitled to seek injunctive relief in any court of competent jurisdiction if the other party is in breach of any of the terms hereof.

23 RIGHTS OF THIRD PARTIES

23.1 A person who is not a party to this Agreement has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

24 GENERAL

24.1 The rights and remedies provided by this Agreement exclude to the furthest extent permitted by applicable law all other rights and remedies (whether express or implied) provided by common law including negligence claims in tort or delict or statute in respect of the subject matter of this Agreement.

24.2 The termination or expiry of this Agreement shall be without prejudice to the rights of either party

which have accrued prior to termination or expiry. Clauses that are expressed to survive or which are by implication intended to survive termination or expiry of this Agreement shall so survive.

- 24.3 If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of its provisions will continue in full force and effect as if this Agreement had been executed with the invalid, illegal or unenforceable provision omitted.