

GLOBAL MASTER SERVICES AGREEMENT

This Agreement takes effect on the Commencement Date, between the following parties, on the Terms and Conditions set out below.

PARTIES

Comms Group or we

Name and company ID	Comms Group International Pte Ltd (201510856E)
Address	9 Raffles Place #24-01, Republic Plaza Tower 1, Singapore 048619, Singapore
Contact Name/Title	
Contact Details	Phone: Email:

Customer or you

Name and company ID	
Address	
Contact Name/Title	
Contact Details	Phone: Email: with copy to:

Key Terms

Governing Law	Singapore
Resale	Allowed ☐ Not Allowed ☐
Initial Service Schedules	
Commencement Date	The date the last party signs, unless another date is specified here:

BACKGROUND

- A. Comms Group and its Affiliates are suppliers of telecommunications products and managed network services.
- B. The Customer wishes to purchase products and/or services from Comms Group.
- C. This Master Services Agreement sets out the general terms and conditions that apply to the provision of products or services to the Customer, under an Order Form or Service Schedule.

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise:

Affiliate means any entity that is Controlled by a Party or under common Control of that Party.

Agreement or **MSA** means this document together with the Order Form, the Initial Service Schedules shown in the Key Terms, each Service Schedule added by subsequent agreement, and other documents incorporated by reference in these terms.

Barring or **Bar** means restricting the supply of:

- (a) all Services; or
- (b) (where possible) one or more Services so that you are unable to acquire those restricted Services.

Business Day means a day that is not a Saturday, a Sunday or a public holiday or bank holiday in the relevant territory.

Charges means the fees payable by you under this Agreement in accordance with clause 4, as specified in your Order Form, a Pricing Schedule, a Services Schedule, a Rate Sheet, an accepted quote, or on our website, or as otherwise notified by us from time to time, or as incorporated by a provision of this Agreement.

Comms Group means the Comms Group entity named on the Cover Page.

Confidential Information means all information of a party marked as confidential or which the other party knows or ought reasonably to be aware is confidential (regardless of its form and whether the other party becomes aware of it before, on or after the date of this Agreement) but excludes information that is publicly known other than as a result of a breach of the obligations of confidentiality under this Agreement.

Consequential Loss means expenses incurred, loss of revenue, loss of profits, loss of anticipated savings or business, pure economic loss, loss of data, loss of goodwill, loss of value of equipment (other than cost of repair), loss of opportunity or expectation loss, and any forms of special, indirect, punitive or exemplary loss or damages, and any penalties or fines imposed by a Regulator (even where such loss arises directly, naturally or in the usual course of things from any breach, action or inaction in question).

Control means ownership of more than half the shares or units in the entity, or the ability to appoint half or more of the directors to the governing body of the entity.

Credit Reporting Body means a third party that supplies services to Comms Group relating to credit assessment and reporting, including where applicable an entity within the definition of that term under Australia's *Privacy Act 1988*.

Early Termination Fee means the fee payable by you if you terminate a Service before its Minimum Term has expired, the calculation of which is set out as follows:

- Full payment of all Charges up to and including the cancellation date
- All outstanding installation, Training and equipment Charges
- 80 per cent of the remaining recurring monthly Charges for Services to the end of the Minimum Term.

End User means any person or entity that uses the Services provided to you under this Agreement, whether or not authorised by you to do so.

Fair Use Policy means a Comms Group policy or Supplier policy of that title or a similar title, as notified to you or available at www.commsgroup.global as updated from time to time.

Fault means any fault relating to Services or equipment.

Governing Law means the Law applicable in the territory so named in the Key Terms.

Government means a government, regulator, judicial body, or local authority however described.

GST means Goods and Services Tax, including Value Added Tax (VAT) or any similar sales or consumption tax in the relevant Territory.

Intellectual Property Rights means all intellectual property rights, including the following rights:

- (a) patents, copyright, rights in circuit layouts, designs, trade and service marks (including goodwill in those marks), domain names and trade names and any right to have Confidential Information kept confidential;
- (b) any application or right to apply for registration of any of the rights referred to in paragraph (a); and
- (c) all rights of a similar nature to any of the rights in paragraphs (a) and (b) that may subsist anywhere in the world, whether or not such rights are registered or capable of being registered.

Insolvency Event means:

- (a) bankruptcy proceedings are commenced against either party, or either party is declared bankrupt;
- (b) any step is taken to enter into a scheme of arrangement between either party and its creditors;
- (c) any step is taken by a mortgagee to enter into possession or dispose of the whole or any part of either party's assets or business;
- (d) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person to either party or to the whole or any part of either party's assets or business;
- (e) if you are a partnership, the partnership is dissolved or an application is made to dissolve the partnership;
- (f) either party suspends payment of its debts generally; or
- (g) either party is or becomes unable to pay its debts when they are due or either party is or is presumed to be insolvent under a law applying to the entity.

Interest Rate means the business banking rate charged from time to time by Commonwealth Bank of Australia plus 2%.

Jurisdiction means the Governing Law territory specified in the Key Terms.

Law means any applicable statute, regulation, by-law, ordinance or subordinate legislation in force from time to time in the Jurisdiction or another territory where Comms Group supplies services, and includes the common law and equity as applicable from time to time and any applicable industry codes of conduct.

Minimum Monthly Spend means, in respect of a Service, the Minimum Monthly Spend (if any) specified in your Order Form and as varied from time to time in accordance with this Agreement.

Minimum Term means, in respect of a Service, the minimum contract period specified in your Order Form.

Order Form means an order in our standard written format for the provision of Services or equipment, which may include details of the Minimum Term, Minimum Monthly Spend, Early Termination Fees and charges for the Services, and has been agreed by us in accordance with clause 2.2.

Personal Information has the meaning meaning given to the term "Personal Data" in the General Data Protection Regulation for European Union purposes, and the meaning given to equivalent terms under privacy Law applying in other territories.

Pricing Schedule means a schedule provided to you by Comms Group setting out Charges that will apply to the Services, as may be amended from time to time in accordance with this Agreement. A Pricing Schedule may be part of a Services Schedule or be a separate document; and may apply to more than one Service.

Rate Sheets means our standard rate sheets for the Services as amended from time to time, as provided to you or notified on our website.

Security Deposit means security in the form of an amount payable by you to us, a bank guarantee, parent company guarantee, security over assets or a bond held by a third party, at our discretion.

Service means each service (including the provision of equipment or Software) specified in your Order Form that we will supply to you under, and subject to, this Agreement.

Service Level means a service level for a Service as specified in a Service Schedule or a Service Level Agreement (SLA).

Service Level Agreement (SLA) means a document of the same name that outlines service level targets and any corresponding Service Rebates, where applicable.

Service Number is defined in clause 7.3(a).

Service Rebate means a rebate payable to you for a failure to meet applicable Service Levels, as specified in a Service Schedule or a Service Level Agreement (SLA).

Service Schedule means a schedule setting out the specifications, system requirements, performance capabilities and Service Levels of a Service, together with any special terms applicable to that Service, and that may include Charges.

Site means in relation to a Service the site specified in your Order Form for the Service.

Service Software means any software we agree to provide to you as specified in your Order Form.

Spend Limit means a limit on the amount you may spend on a service determined in accordance with clause 6.

Supplier means any carrier, telecommunications service provider, internet service provider, software or equipment supplier or other service provider that provides facilities and services to us.

Training means the training specified in your Order Form.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The following rules apply unless the context requires otherwise:
 - (i) the singular includes the plural and conversely;
 - (ii) a gender includes all genders;
 - (iii) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
 - (iv) a reference to a person includes a natural person, corporation, trust, partnership, unincorporated body, association, governmental or local authority or agency or other entity;
 - (v) a reference to a party is to a party to this Agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
 - (vi) a reference to a clause, paragraph or schedule is a reference to a clause or paragraph of or a schedule to, this Agreement;
 - (vii) a reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated, or replaced, except to the extent prohibited by this Agreement or that other agreement or document;
 - (viii) a reference to legislation or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (ix) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
 - (x) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it; and
 - (xi) if a day on or by which an event must occur is not a Business Day, the event must occur on or by the next Business Day.

2. Service Schedules and Order Forms

2.1 Service Schedule

- (a) The current versions of our Service Schedules are available from our website. A Service Schedule may be updated by us from time to time, by posting the current version on our website.
- (b) If changes to a Service Schedule are materially detrimental to you, we will notify you prior to the changes taking effect, and we will not apply Minimum Term or Minimum Spend obligations where it is unreasonable for us to do so.
- (c) If you agree to purchase a Service under an Order Form, the relevant Service Schedule, Pricing Schedule and Rate Sheet will apply and will be binding on you in relation to that Service. Each Service Schedule will continue in force for as long as we continue to supply the relevant Service to you.

2.2 Order Form

- (a) You may request Services or equipment from us at any time by completing and submitting an order to us in our standard form.
- (b) If you complete a written order form we may accept and rely on, and you will be bound by, a facsimile copy or an electronic copy (sent to us by email) of your order form as if it were an original.
- (c) No order form submitted to us under this clause 2.2 will be binding on us until it is accepted by us and we confirm your order in writing.

2.3 Interactions between these terms and conditions, Service Schedule and Order Form

In the event of any inconsistency between these terms and conditions, a Service Schedule and an Order Form in relation to a particular Service, the provisions of the earlier mentioned document in the list below will prevail to the extent of the inconsistency:

- (a) any special conditions agreed in the Order Form or in association with it;
- (b) the relevant Service Schedule, Pricing Schedule or Rates Sheet;
- (c) the terms and conditions of this Agreement.
- (d) any applicable Service Level Agreement not forming part of the above documents.

3. Supply of Services

3.1 Supply by us

- (a) We will provide you with each of the Services specified in your Order Form and any other Services we may agree in writing to provide to you from time to time, on the terms of this Agreement.
- (b) Periodic Charges for a Service commence applying on the date that the Service is available for your use, but not earlier than the date specified for installation or commencement on your Order Form, unless agreed.

3.2 Service Levels

- (a) We do not warrant that the Services will be uninterrupted or error free.
- (b) There may be Service Levels applicable to the Services. Any applicable Service Levels are specified in your Order Form or the applicable Service Schedule or Service Level Agreement.
- (c) We do not guarantee that Service Levels will be met. If Service Rebates apply, those Service Rebates will be applied in accordance with the terms of the applicable document and are your sole and exclusive remedy in respect of the failure to meet the applicable Service Levels.

3.3 Additional Services

If you require any additional Services, a new Order Form must be completed and accepted by each party in accordance with clause 2.2. If the Services covered by the Order Form are not included in the Initial Service Schedules, the applicable Service Schedule and any other terms that we apply to those Services are deemed to be incorporated in this Agreement from the time the Order Form is completed.

3.4 Functionality of Services

The Laws applying to the Services in each territory where they are supplied may include consumer protection Laws. Except to the extent those Laws provide otherwise and as provided in this Agreement, we do not warrant or represent the performance, accuracy, reliability or continued availability of the Services, or that the Services will be compatible with or will inter-operate with any particular computer system or item of equipment or software.

3.5 Responsibility for Services

You are responsible for the use of the Services by you, Affiliates and End Users, including:

- (a) any software other than Services Software that is used in connection with the Services;
- (b) maintaining confidentiality of the links and passwords associated with all accounts in relation to the Services; and
- (c) ensuring that your equipment is compatible with the Services, operates properly, is secure and is only used by your authorised personnel.

We are responsible for:

- (d) Delivering the Services using the reasonable skill and care of a competent telecommunications service provider; and
- (e) Using reasonable efforts to restore the Services as soon as possible in the case of a failure of our network or systems.

3.6 Installation and commissioning

Unless otherwise agreed, you will undertake all installations of on-Site equipment, and Comms Group will create all Services remotely

3.7 Third Party Services

- (a) We may pass on any charges a Supplier charges to us in respect of the Services provided to you (including increases and special or one-off charges.)
- (b) We use the services of Suppliers in order to provide the Services to you. A Supplier's service terms with us may include provisions affecting our terms with our customers, such as Fair Use Policies, limitations of liability or disclaimers. Accordingly, we may notify you from time to time of provisions that apply to you or your End Users, arising from the Supplier's terms. We may notify the provisions by way of inclusion within a Service Schedule, or by individual notice, or by notice on our website. Such provisions then apply as part of this Agreement.
- (c) If you use an override code to access services offered by another Supplier, you will be billed by that Supplier for charges you incur unless we have a separate arrangement in place for the Supplier to charge us directly, in which case we will pass on the charges to you in accordance with this clause 3.7.

3.8 Governments and Suppliers

You acknowledge that we may be prevented from supplying the Services as described in full or at all, due to the actions of a Government, the Laws applying in a territory, the terms or policies of our Suppliers, or a Comms Group decision concerning any of the above, and that we have no liability in that event. In particular, calls to some countries may be blocked, or destinations withdrawn, for a number of reasons including:

- (a) In some countries, calls must be greater than 3 minutes in duration.

- (b) Unsolicited marketing calls are not allowed.
- (c) Repeat calls from the same number in a rolling hour are not allowed.
- (d) Calls from invalid, modified and spoofed numbers as well as those from restricted origination are not allowed.
- (e) Calls to China cannot be made using a Chinese number.

You also acknowledge that non-adherence may result in calls being blocked without notice and that we may be unable to control which calls are monitored or which traffic passes through successfully or is blocked.

4. Payment terms

4.1 Payment of Charges

- (a) We may invoice you for the Charges at the relevant rates as specified in the Service Schedule, Pricing Schedule or Order Form for a Service, or notified to you from time to time in accordance with clause 26.5.
- (b) We will issue invoices to you monthly (or at any other frequency specified in your Order Form). We may issue interim invoices. We may bill you more often if you exceed your Spend Limit.
- (c) Our first invoice will be issued either in the month that we commence providing Services to you or, in our discretion, the following month.
- (d) Your invoice will be calculated with reference to data recorded by us and our Suppliers. Our records are sufficient evidence of amounts payable by you unless demonstrated to be incorrect.
- (e) Unless otherwise expressly stated in this Agreement, we will generally bill you in advance for periodic charges, connection and Service fees (where applicable) and in arrears for usage charges, although this may vary in certain cases.
- (f) We will endeavour to bill you within the next normal billing period for charges billed in arrears, but we reserve the right to bill you for those charges in later billing periods.
- (g) All charges are due and payable by the due date shown on the invoice (**Due Date**), usually 30 days from the date on which the invoice was issued. Payment must be made by the Due Date in full by cheque, credit card, direct debit or any other method permitted by us.
- (h) You must pay all Charges invoiced to you without any set off, counter claim or deduction. We may set off any amount payable to you against any amount payable by you to us.
- (i) If your payment is dishonoured, cancelled or otherwise fails, we may charge you an additional processing fee which will be added to your next invoice.
- (j) If you do not pay to us any part of the charges by the Due Date, we may charge interest on the overdue amount from the due date for payment up to the date of actual payment at the Interest Rate;
- (k) If we reasonably incur costs in recovering overdue amounts from you, including mercantile agents' costs, disconnection of Services costs or costs incurred in commencing legal action, we may recover these amounts from you in addition to the overdue amounts.

4.2 Minimum Monthly Spend

If a Minimum Monthly Spend applies to a Service (as specified in your Order Form or Pricing Schedule) and your usage and Service charges for any month are less than the applicable Minimum Monthly Spend, we will invoice you for, and you must pay in accordance with clause 4.1, the Minimum Monthly Spend in respect of that month. You acknowledge that the Minimum Monthly Spend is reasonable and proportionate to our operating costs and investment in providing the Services.

4.3 Disputed Invoices

If the Customer disputes any part of an invoice submitted by Comms Group, the Customer must:

- (a) notify Comms Group in writing within 14 days of receipt of the invoice of the reasons for disputing the invoice; and
- (b) pay the undisputed amount on or before the due date for payment.

The parties must endeavour to resolve the disputed amount between themselves within 10 days of the notification being given by the Customer. If the parties do not resolve the dispute within 10 days of notification in writing by the Customer, the dispute resolution procedure set out in Clause 23 applies.

Absent manifest error or an over-riding Law, if a dispute is raised later than the cut-off date Comms Group may decline to review it, and the Customer must pay all amounts invoiced including disputed amounts. Under no circumstances will Comms Group have any liability for disputed charges raised more than 6 months after the date of the relevant invoice

4.4 Group invoicing

The Comms Group entity that is party to this Agreement is one of a group of Affiliated entities operating in different territories. We hold the benefit of this Agreement for each Affiliate involved in supplying the Services. You acknowledge and agree that either we

or an Affiliate may issue an invoice to you under this Agreement. All invoices issued by us or our Affiliate must be paid to the invoicing entity in accordance with clause 4.1.

4.5 Commission and referral fees payable

You acknowledge and accept that Comms Group may pay commissions to any dealer or referral fees to any person who introduced you to Comms Group.

4.6 Variation to Charges

Notwithstanding clause 26.5 we reserve the right to vary any Charges at any time in accordance with clause 26.5, including where our cost of supply increases as a result of additional Supplier costs, changes to Law, regulatory costs or taxes imposed by any Government.

5. Security deposit

5.1 Payment of Security Deposit

Comms Group may by notice in writing require you to provide a Security Deposit, or adjust or increase the amount of an existing Security Deposit, on terms acceptable to Comms Group, if:

- (a) you fail to pay any amount due under this Agreement by the due date for payment;
- (b) Following a credit check or credit review, we form the opinion that a Security Deposit is required;
- (c) You undergo a change of Control;
- (d) Your spend with us increases substantially; or
- (e) we otherwise reasonable require.

5.2 Provision of Security Deposit

If required under clause 5.1, you must provide the Security Deposit to Comms Group within 5 Business Days of the date of the notice. In addition to any other rights available to it under this Agreement, Comms Group may terminate or suspend a Service if you fail to provide the Security Deposit within the time required under this clause.

5.3 Use of Security Deposit

Comms Group must hold the Security Deposit as security for the payment of any sums due under this Agreement. If you fail to pay any amount due on the due date for payment, Comms Group may immediately deduct amounts owed from the Security Deposit as set-off of your payment obligation.

5.4 Reinstatement of Security Deposit

If Comms Group deducts any monies from the Security Deposit under clause 5.1 you must pay Comms Group on demand by way of additional security that amount to replace the amount of the Security Deposit used in accordance with clause 5.2.

5.5 Return of Security Deposit

Comms Group must return any part of the Security Deposit which is unused to the Customer, and release the Security Deposit, on termination of this agreement and completion of all Customer obligations.

5.6 Security other than funds

If the Security Deposit is in a form other than funds paid to us, the provisions of this clause 5 apply with the necessary changes for that form of security.

6. Spend Limits

- (a) We may from time to time set a Spend Limit for the amount we will allow you to spend on one or more Services during a month. The Spend Limit is only a guideline for our credit management process. We may take appropriate action at our discretion as part of our credit management process, which may include the following:
 - (i) verbally advising you of the total charges you have incurred;
 - (ii) advising you in writing (including by email) of the total charges you have incurred;
 - (iii) requiring pre-payment;

- (iv) increasing the amount of a Security Deposit; and/or
- (v) issuing an interim invoice, payment of which must be received, to continue supply of the Services.
- (b) We may also monitor your use of the Services for excessive or unusual usage or your level of liability for charges for such usage, but do not promise to do so. You acknowledge and agree that in addition to our rights under clause 18, we can suspend, cancel or Bar your Services upon reasonable verbal or written notice to you if we have reasonable grounds for believing that you represent a credit risk in relation to the Service, including where:
 - (i) Service is being used in an excessive or unusual way or there is an unusually high volume or spend for that Service when compared with previous account activity for that Service;
 - (ii) you fail to respond to notices from us about unusually high volume or spend; or
 - (iii) you fail to pay an invoice that is due and payable in circumstances where your payment history indicates a series of late payments, dishonoured payments or failures to pay.
- (c) If we suspend, Bar or cancel a Service, you must still pay for any charges incurred for any excessive or unusual usage (regardless of how caused) and the provisions relating to liability and indemnity also remain unaffected.
- (d) If you wish to Bar access to premium rate Services from the Services we provide you, please contact us.
- (e) We will not be responsible for any equipment tampering or Service fraud except to the extent that such tampering or fraud is caused by us. Should you have any questions in relation to steps which may be taken to reduce the potential risk of fraud in relation to Services or equipment, please contact us and we will endeavour to provide such information or direct you to an appropriate source of information.

7. Your obligations

7.1 General obligations

- (a) You must ensure that you comply at all times with all Laws applicable to the Services, Software and equipment and their use.
- (b) You must, when using the Services, Software and equipment, comply with any specifications, procedures or policies specified in the relevant Service Schedules or otherwise notified to you in writing in accordance with clause 26.5.
- (c) You must promptly provide us with all information and assistance we reasonably request from you in order to supply the Services and equipment or otherwise comply with our obligations under this Agreement and any applicable Law.
- (d) If allowed under the Key Terms, you may resell and permit Third Parties to use the Services, subject to the following conditions:
 - (i) no such resale or Third Party use will lessen or modify the Customer's obligations under this Agreement;
 - (ii) use of the Service by third parties must comply with this Agreement and all applicable Law; and
 - (iii) the Customer must possess or maintain all approvals applicable to such resale or third party use.
- (e) If not allowed under the Key Terms, you must not resupply the Services or equipment to a third party without our prior written consent, which we may give or withhold in our absolute discretion.
- (f) If you change your address, phone number or other billing contact details, you must notify us within five Business Days.
- (g) You must not do anything with or in relation to the Services which is likely to adversely affect our good name and reputation.
- (h) You and your Affiliates must obtain, keep current and comply with the conditions of all licences, approvals and registrations in each territory that are required for you to receive and use the Services, and use reasonable endeavours to ensure that your End Users do so.

7.2 Your acknowledgements

You acknowledge that:

- (a) in relation to Service Numbers:
 - (i) Governments own and/or regulate service numbers such as telephone numbers and mobile numbers (**Service Numbers**);
 - (ii) each territory has Laws relating to issuing, transferring and changing Service Numbers, which you and we must comply with. Information about your rights of use of your Service Numbers may be obtained by calling us;
 - (iii) you do not own or have any legal interest or goodwill in any Service Number or PIN issued to you and we may recover the Service Number from you;
 - (iv) you can transfer a Service Number or PIN to another person if you obtain our prior written consent; and

- (b) we and/or our Suppliers may be required by Law to disclose the name, address, Service Number and other public number customer details of you and your End Users (including unlisted number End Users) under Laws relating to telecommunications, directories and security. Information disclosure may be restricted by Law to recipients such as emergency service organisations or law enforcement agencies; and
- (c) we may be required by Law to monitor or intercept communications made using the Services.

8. Use of the Services

8.1 Use of Services

- (a) You must not use the Services:
 - (i) for any unlawful purpose (including to send any electronic messages in contravention of a Law relating to privacy or marketing);
 - (ii) in a manner that may menace or harass any person or intentionally or recklessly cause damage or injury to any person or property or incite hatred against any person;
 - (iii) in a manner that may expose us or you to the risk of any legal or administrative action including prosecution under any Law or which would bring either of us into disrepute;
 - (iv) to publish material that is or may be illegal or defamatory or which may promote others to engage in such acts;
 - (v) in a manner that may damage our, or our Suppliers', network or systems or cause the quality of the Services to be impaired;
 - (vi) in a manner that may infringe any person's privacy, intellectual property or other rights.
- (b) You agree to comply with the Fair Use Policies set out on our website and those of any Suppliers relevant to the provision of your Services (as specified in your Order Form.)

8.2 Your Affiliates

The parties agree that the Customer may use this Agreement for the benefit of its Affiliates, including by re-supplying Services to them, and by assigning the right to enter into Service Schedules or complete Order Forms to its Affiliate.

We hereby approve any such assignment by the Customer to its Affiliates, provided that at all times the Customer retains full responsibility and liability for the acts and omissions of itself and its Affiliates. The Customer and the Affiliate agree that we may take enforcement action at our discretion against either the Affiliate or the Customer in relation to the relevant Services.

With our agreement, the Customer or its Affiliate may arrange for the Affiliate to receive invoices directly from us and / or to pay invoices for nominated Services, provided that at all times the Customer retains primary responsibility for payment of invoices.

8.2 Network security

Both parties agree to co-operate in good faith to prevent, detect and/or eliminate improper use of the Services, including:

- (i) denial of service and/or distributed denial of service attacks;
- (ii) exploitation of protocol vulnerabilities;
- (iii) address and/or identity spoofing;
- (iv) theft of service;
- (v) rogue media;
- (vi) session hijacking;
- (vii) network intrusion;
- (viii) infringement of third party intellectual property;
- (ix) illegal, immoral or unauthorised use, access, exploitation, interruptions or monitoring; and
- (x) uses unsolicited by the End User.

9. Transfer of your Services to us

- (a) If in providing the Services you require us to change your arrangements with your current service provider, then we will do so in accordance with this clause 9.

- (b) You authorise us to sign on your behalf and in your name forms of authority to be provided to your current service provider to transfer your telecommunications services to us solely for the purposes of providing the Services under this Agreement.
- (c) You agree to give written instructions to your current service provider to transfer your telecommunications services from your name to ours if required.
- (d) If your previous service provider credits us with any amount you had paid in relation to services provided to you before the date of transfer, we will credit that amount to your account.
- (e) If your previous service provider raises with us a charge relating to a service it provided to you before the commencement of your Services we will advise you accordingly and you must pay your previous service provider that amount.

10. Transfer of your Services from us to another Supplier

- (a) If you (or a service provider acting with your authority) ask us to transfer any of the Services to another service provider, then you remain liable to us for any Charges payable in relation to the supply of the Services up to the date on which we transfer those Services to another service provider.
- (b) The provision of Services will cease on the date on which we transfer those Services to another service provider.
- (c) We will issue a final invoice to you for Services which you transfer to another service provider in accordance with clause 4.1.
- (d) If your new service provider credits us with any amount for Services provided up to the date of transfer, we will credit that amount to your final invoice or pay it to you by cheque or electronic transfer.

11. Privacy

11.1 Privacy

- (a) In the course of providing the Services we may collect Personal Information about you, your employees, End Users and other individuals.
- (b) We will use and disclose any Personal Information we collect in the course of providing the Services or otherwise in connection with this Agreement in accordance with the Data Processing Agreement set out in Annexure A.
- (c) Each party in providing any Personal Information to the other party warrants that it does so lawfully and has obtained any consents necessary:
 - (i) to enable the party to provide it; and
 - (ii) to enable us to use and disclose it as contemplated in paragraph (b).

11.2 Credit reference check

- (a) You acknowledge that we may perform credit checks on you and obtain a credit report about you.
- (b) You agree to our giving to and obtaining from any credit provider named in your Order Form or in a credit report on you issued by a Credit Reporting Body, information about your credit arrangements for the purposes of:
 - (A) assessing your Order Form;
 - (B) notifying a default by you;
 - (C) allowing another credit provider to ascertain the status of your arrangements with us where you are in default with one or more other credit providers; and
 - (D) generally assessing your credit worthiness.
- (c) You understand that the information exchanged can include any information about your personal and/or commercial credit worthiness, credit standing, credit history or credit capacity which credit providers may lawfully give to or receive from each other.

13. Fault reporting and recovery

13.1 Fault reporting and restoration

- (a) Faults can be reported to our help desk during its operating hours. If you become aware of a Fault you must promptly report it to us.
- (b) Before reporting a Fault to us, you must take reasonable steps to determine that the Fault is with the Service and not due to your equipment or software or user error.
- (c) We are responsible for correcting Faults in the Services if those Faults are caused by us. We will endeavour to resolve Faults in accordance with any applicable Service Levels.
- (d) You must provide all necessary assistance to enable us to locate and repair any Fault which is our responsibility.

13.2 Charges for restoration

The Customer is liable for all costs incurred by Comms Group in restoring a service where the fault arises as a result of:

- (a) any fault in any equipment, software or any network unit which does not form part of the Comms Group Service;
- (b) defects in Customer or End User equipment or its installation, or arising out of Customer or End User software applications, Customer or End User content or communications services not supplied or provided by Comms Group; or
- (c) any act or omission of the Customer or any of its End Users, employees, consultants, contractors, agents or representatives.

14. Confidentiality

14.1 Use and disclosure

Each party to this Agreement:

- (a) may use the other party's Confidential Information only for the purposes of this agreement; and
- (b) must keep confidential all Confidential Information except:
 - (i) for disclosures permitted under this clause 14; and
 - (ii) to the extent (if any) each party is required to disclose any Confidential Information by Law or in accordance with the rules of an applicable stock exchange.

14.2 Use and disclosure of Confidential Information

Each party may disclose Confidential Information to persons who:

- (a) have a need to know for the purposes of this Agreement (and only to the extent that each has a need to know); and
- (b) before disclosure:
 - (i) in the case of each party's officers and employees, have been directed to keep confidential all Confidential Information; and
 - (ii) in the case of other persons, have agreed in writing to comply with substantially the same obligations in respect of Confidential Information as those imposed on each party under this Agreement,
 (each a **Direction**).

14.3 Mutual obligations

Each party must:

- (a) ensure that each person to whom it discloses Confidential Information under clause 14.2(b) complies with its Direction; and
- (b) notify the other party of, and take all steps to prevent or stop, any suspected or actual breach of a Direction.

14.4 Disclosure required by Law

If either party is required by Law to disclose any Confidential Information to a third person (including government) it must:

- (a) before doing so:
 - (i) notify the other party in writing; and
 - (ii) give the other party a reasonable opportunity to take any steps that it considers necessary to protect the confidentiality of that information; and
- (b) notify the third person that the information is confidential to the disclosing party.

14.5 Return of Confidential Information

On the termination of this Agreement for any reason, each party must either destroy or return the Confidential Information and all copies of it to the other party. If the Confidential Information has been destroyed, or any of them, then either party may request a written declaration to that effect, with such request not to be unreasonably unfulfilled..

15. Intellectual Property Rights

15.1 Ownership of Intellectual Property Rights

Unless otherwise specified in this Agreement, we (or our third party licensors) own exclusively all Intellectual Property Rights in the Services and in any material, including software, that we design, create, modify, supply or licence to you, even if it was created or modified for or suggested by you.

15.2 Licensed Intellectual Property Rights

- (a) To the extent necessary for you to receive the benefit of a Service, we grant you a non-exclusive, non-transferable, non-sublicensable licence to use our materials, royalty-free, during the term of this Agreement.
- (b) To the extent any of your materials become combined with our materials you grant us a perpetual, royalty-free, irrevocable, non-exclusive licence to copy, use, adapt and distribute and sub-license those materials in the course of our ongoing business.

16. Third Party Intellectual Property Rights

- (a) In providing a Service, we may supply you with materials (including software) licensed by third parties.
- (b) If we supply you with materials (including software) licensed by third parties, you must comply with the terms of the relevant third party licences and you indemnify us against any loss, damage, claim, liability or demand we incur due to your breach of those third party licences.
- (c) If we supply you with materials (including software) licensed by third parties we hereby warrant that we are authorised to do so, and that in supplying you with materials (including software) licensed by third parties, we are not breach of their intellectual property rights. We indemnify you against any loss arising out of our failure to comply with this clause.

17. Maintenance and Suspension

17.1 Maintenance

We may perform scheduled and unscheduled maintenance in relation to the Services from time to time. Details of how and when scheduled maintenance will be performed for each Service are set out in the relevant Service Schedule.

17.2 Suspension of Services

We may, without liability, suspend the provision of any Service:

- (a) for a reasonable period for operational, legal or safety reasons (including to perform emergency maintenance);
- (b) if there is an emergency;
- (c) if our Suppliers suspend the Service or any service we use to provide the Service;
- (d) if services we use to provide the Services become unavailable;
- (e) if we reasonably believe that there has been unusually high use of a Service;
- (f) if we reasonably suspect fraud in connection with the Service;
- (g) if we are required to do so by Law, an emergency services organisation, a law enforcement agency, a telecommunications regulator or other applicable authority; or
- (h) otherwise in accordance with clauses 18.3 and 18.4.

18. Term and Termination

18.1 Term

- (a) This Agreement commences on the earlier of the date on which:
 - (i) you submit an Order Form in accordance with clause 2.2; or
 - (ii) you first access the Services after receipt of these terms and conditions,
 and continues until terminated in accordance with this clause 18.
- (b) The provision of each Service commences:
 - (i) if you are transferring from another service provider, when your accounts are transferred from your current service provider to us and any other arrangements with another Supplier for the provision of the Services have been completed;
 - (ii) if you are not transferring from another service provider, when the Service is commissioned by us; or
 - (iii) if you cause a delay that prevents us from commissioning the Services, from the proposed start date in your quote or Order Form.
- (c) If the Order Form does not specify a Minimum Term for a Service, we will provide the Service to you in accordance with the Agreement until the Service is cancelled in accordance with this clause 18.
- (d) If the Order Form does specify a Minimum Term for a Service, we will provide the Service to you in accordance with the Agreement for the Minimum Term and then on a month to month basis until it is terminated:

- (i) by either you or us giving 30 days' notice in writing; or
- (ii) otherwise in accordance with clause 18.

18.2 Your termination rights

You may terminate these terms and conditions, an individual Service Schedule or Order Form (as the case may be) by notice in writing to Comms Group, if:

- (a) In respect of an Order Form, you give Comms Group prior written notice before the date of commission for the Services to terminate that Order Form and pay to Comms Group all infrastructure, equipment and installation costs incurred by Comms Group in connection with preparation for the provision of the Service including, without limitation, costs payable to Suppliers;
- (b) Comms Group has committed a material breach of these terms and conditions, the Service Schedule or Order Form (as the case may be) and either:
 - (i) the breach is not remedied within 14 days of the date written notice of the breach is given to Comms Group; or
 - (ii) the breach is not capable of remedy; or
- (c) Comms Group suffers an Insolvency Event.

18.3 Our termination rights

- (a) We may terminate this Agreement or suspend, limit or cancel the provision of any Services by notice in writing to you if:
 - (i) you fail to pay any amount due under this Agreement by the due date, we give you notice requiring payment of that amount (which we may not give in respect of an amount which is genuinely disputed until we have investigated the dispute) and you fail to pay that amount in full within 14 days of the date of the notice;
 - (ii) you materially breach any provision of this Agreement;
 - (iii) you suffer an Insolvency Event;
 - (iv) any equipment or Service does not function because we are unable to enter the Site in order to update or rectify such equipment or Service;
 - (v) you are in material breach of a licence, permit or authorisation relating to the use of your telecommunications equipment or the Services;
 - (vi) you do not provide security as reasonably required by us;
 - (vii) we reasonably suspect you of fraud or attempted fraud;
 - (viii) the Services cannot be provided at your new address or phone number through no fault of ours or our Supplier;
 - (ix) we reasonably determine that you have failed our credit check requirements or that you are no longer credit worthy;
 - (x) we are required to do so by Law;
 - (xi) you are in breach of a Fair Use Policy and the breach, if capable of remedy, is not remedied within 14 days of the date written notice of the breach is given to you; or;
 - (xii) any of our Suppliers cease providing services to us which materially affects our ability to provide the Services; or
- (b) Where there is no Minimum Term in place, we may, without liability, suspend, limit or terminate the provision of any Service for convenience, by giving you 30 days' notice in writing.

18.4 Failure to pay

If you fail to pay any amount due under this Agreement by the due date, we may (without limiting any of our other rights under this Agreement):

- (a) suspend the provision of the Services;
- (b) charge you interest on the overdue amount up to the date of payment at the Interest Rate; and/or
- (c) refer the debt owing to us to an external collection agent or commence legal action to recover any unpaid debt due to us.

18.5 Suspended Services

If we suspend, limit or cancel the Services for unpaid charges or for any other reason, subsequent reconnection may incur a reconnection fee, except where the suspension, limitation or cancellation resulted from our or a Supplier's negligence or breach of this Agreement.

18.6 Actions on termination

- (a) On termination of this Agreement, you must:
- (i) pay all Charges incurred by you under this Agreement up to the time of termination which will become immediately due and owing upon termination;
 - (ii) pay all outstanding amounts for any equipment which you have not fully paid for as at the date of termination;
 - (iii) pay the applicable Early Termination Fee (if any) to us.
- (b) If there is credit remaining on your account at the time of termination, we will, at our option, deduct the credit from any amount you owe us under paragraph (a) or pay you the credit or if the credit exceeds any amount you owe us, we will refund you the difference by cheque or electronic funds transfer.

19. Force Majeure

We are not liable for:

- (a) any delay in installing any Services;
- (b) any delay in correcting any Fault in any Services;
- (c) failure or incorrect operation of any Services;
- (d) Service outages; or
- (e) any other delay or default in complying with this Agreement,

if it is caused directly or indirectly by any event beyond our reasonable control. Events beyond our reasonable control include failures of third parties, Acts of God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (regardless of whether war is declared), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalisation, government sanction, blockage, embargo, labour dispute, strike, lockout or interruption or failure of a telecommunications service provided by a third party.

20. Limitation of liability

20.1 No implied terms

To the maximum extent permitted by Law and except as expressly set out in this Agreement, all terms, conditions, warranties, guarantees, undertakings, inducements and representations, whether express or implied or conferred by legislation, the common law, equity, trade, custom or usage or otherwise, are expressly excluded.

20.2 No indirect loss

To the maximum extent permitted by Law, we will not be liable to you (including in negligence) for any Consequential Loss arising out of or in connection with this Agreement.

20.3 Exclusion of liability

To the maximum extent permitted by Law we have no liability to you or to any other person for:

- (a) acts or defaults of any Supplier or other person;
- (b) faults or defects in any facility or equipment (including the Service Software) that we supply to you or that we use in the course of providing the Services, which are caused by or contributed to by your, or a third party's, conduct or misuse; or
- (c) faults or defects that arise in services not provided under this Agreement (even if they are connected, with our consent, to Services provided under this Agreement), which are due to incompatibility with the Services, Service Software, or any other equipment that we or our Suppliers use or provide to you.

20.4 Resupply of Services

Subject to clauses 20.2 and 20.3, our liability (including in negligence) for any loss or damage arising out of or otherwise in connection with this Agreement or the provision of the Services, including for any breach of any term, condition, warranty or under any remedy implied by Law (which cannot be excluded), will be limited to the extent permitted by Law at our option to any one or more of the following:

- (a) if the supply relates to goods:
 - (i) the repair or replacement of the goods or supply of equivalent goods; or
 - (ii) the payment of the cost of having the goods repaired or replaced or acquiring equivalent goods; and

- (b) if the supply relates to services:
 - (i) the resupply of those or equivalent services; or
 - (ii) the payment of the cost of having those services resupplied.

20.5 Liability of Suppliers

To the maximum extent permitted by Law our Suppliers have no liability to you in connection with this Agreement.

21. Indemnity

21.1 Your Indemnity

You indemnify and will keep us and our Affiliates indemnified against any loss, cost, expense, damage or other liability (including legal costs on a solicitor/client basis) (**Loss**) arising out of:

- (a) your breach of this Agreement;
- (b) any claim or demand against us (including for negligence) by any person other than you, which arises from or is connected with your use of the Services;
- (c) any claim or demand (including for negligence) which you or any other person makes against any of our Suppliers which arises from or is connected with your use of the Services;
- (d) any damage which you or your End Users, employees, agents or contractors cause to our, or our Suppliers', network, equipment or other property;
- (e) the reproduction, broadcast, use, transmission, communication or making available of any material (including data and information of any sort) by you; or
- (f) any breach of a person's rights or defamation of a person (or allegation of such breach or defamation) involving your use of the Services, provided that you will not be liable to us for any Loss under this indemnity to the extent that the Loss was caused or contributed to by our or our Affiliate's negligence or breach of this Agreement.

22. Taxes

22.1 Tax on supply

Unless expressly stated otherwise, all Charges and other amounts payable (and all quotes given) under or in accordance with the terms of this Agreement (including charges for Services, repair fees, late payment charges, Early Termination Fee, reconnection fees and installation costs) are exclusive of applicable taxes (such as Goods and Services Tax (GST)). Where required by Law or our reasonable assessment, you must pay to us in addition to the Charges an amount equal to any taxes payable on the relevant supply

22.2 Other taxes

Without limiting clause 22.1 and unless expressly stated otherwise, Charges for the Services are exclusive of all Government taxes, duties (including stamp duty), imposts or levies, which will be your responsibility and will be itemised on your invoice.

23. Disputes

23.1 Dispute resolution prior to litigation

The parties must exhaust the provisions of this clause 23 before initiating any legal proceedings in court.

23.2 Senior representative resolution

The parties must use their best endeavours and act in good faith to resolve any dispute arising in connection with this Agreement by negotiation between a senior manager of each of them.

23.3 CEO Resolution

If senior managers of the parties have not resolved any dispute within 20 Business Days of notification of the dispute, the dispute must be escalated to the CEO or equivalent of each party for resolution.

23.4 Litigation

If the CEOs of the parties fail to resolve the dispute within a further 20 Business Days of notification of the dispute, either party may take such additional action as it deems necessary to resolve the dispute, including initiating legal proceedings.

24. Affiliates and subcontracting

- (a) We may, in our sole discretion subcontract or use any of our Affiliates to provide any part of the Services.
- (b) Despite our use of any subcontractors or Affiliates to provide the Services, we will remain responsible for providing the Services in accordance with this Agreement.

25. Assignment

- (a) You must not assign, transfer, purport to novate or otherwise deal with any of your rights or obligations under this Agreement, except with our prior written consent (which we will not unreasonably withhold).
- (b) We may assign, transfer, novate, sell or otherwise deal with our rights under this Agreement without your consent. We must notify you within a reasonable period of time if we exercise our rights under this paragraph (b).

26. General

26.1 Notices

All notices must be:

- (a) in writing;
- (b) signed by the party giving the notice (or an authorised representative of that party); and
- (c) sent by email or prepaid express post to the party's address for service, which is the party's business address or contact email address as specified in the Key Terms, or another nominated address.

If you nominate a different address for notices under a Service Schedule or Order Form, we will endeavour to send notices in respect of that Service Schedule or Order Form to that address. However, provided we send a notice to any address you nominate, the notice is valid.

26.2 Effect

A notice given under clause 26.1 will be taken to be duly given or made:

- (a) in the case of delivery in person, when delivered;
- (b) in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country);
- (c) in the case of email, on the first to occur of:
 - (i) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered to the email address stated in the details page;
 - (ii) the time that the notice enters an information system which is under the control of the recipient; and
 - (iii) the time that the notice is first opened or read by the intended addressee, however, if the sender receives an out of office reply that states the recipient is out of the office until a later date, the notice will only be taken to be given on that later date, but if the result is that a notice would be taken to be given or made on a day that is not a Business Day in the place to which the notice is sent or at later than 5.00pm (local time), it will be taken to have been duly given or made at the start of business on the next Business Day in that place.

26.3 Governing law and jurisdiction

This Agreement is governed by the Governing Law shown in the Key Terms, and each party irrevocably submits to the non-exclusive jurisdiction of the Jurisdiction shown in the Key Terms.

26.4 Further assurance

Each party will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Agreement.

26.5 Variation

Except to the extent expressly provided in this Agreement, this Agreement may not be amended or varied except in writing signed by both parties.

26.6 Attorneys

Each individual executing this Agreement (including an Order Form) on behalf of a party warrants that he or she has full and proper authority to do so.

26.7 Entire agreement and counterparts

This Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all previous agreements or understandings between the parties in connection with its subject matter. Any document forming part of this Agreement may be signed electronically and in counterparts.

26.8 Survival

- (a) Any indemnity or any obligation of confidence under this Agreement is independent of, and survives termination of, this Agreement. Any other term by its nature intended to survive termination of this Agreement survives termination of this Agreement, including clauses 1, 4, 6, 9, 10, 11, 15, 17, 18.6, 20, 21, 23 and 26.
- (b) Termination of this Agreement does not affect any accrued rights or remedies of either party.

26.9 Severance

A provision or part of a provision of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining provisions or parts of the provisions of this Agreement continue in force.

26.10 No merger

Nothing in this Agreement merges, extinguishes, postpones, lessens or otherwise prejudicially affects any right, power or remedy that we may have against you or any other person at any time.

26.11 Consents and warranties

- (a) Except where this Agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this Agreement.
- (b) Each party warrants that:
 - (i) it is duly incorporated and has the legal capacity to enter into this Agreement;
 - (ii) it will maintain all power and authority (including any necessary consents or licences) necessary to perform this Agreement;
 - (iii) neither it nor any of its directors or employees are subject to any sanctions administered or enforced by any U.S. governmental authority including the Office of Foreign Assets Control (OFAC); and
 - (iv) neither it nor any of its Affiliates are located in a country classified as a U.S. Embargoed Country.

26.12 Relationship

Except where this Agreement expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties

SIGNED by the parties as an agreement.

SIGNED by Comms Group by its authorised officer:		
Signature of Witness		Signature of Authorised Officer
Name of Witness (print)		Name Authorised Officer (print)
Date:		
SIGNED by by its authorised officer:		
Signature of Witness		Signature of Authorised Officer
Name of Witness (print)		Name Authorised Officer (print)
Date		