MASTER SERVICES AGREEMENT RELATING TO BOOMERANG PRODUCTS AND SERVICES

This Master Services Agreement and any incorporated or associated documents (together the "**Agreement**") is a legal agreement between: (i) your organisation (the "**Customer**"); and (ii) **BOOMALERT LTD]** incorporated and registered in England and Wales with company number 08978053 whose registered office is at Regina House, 124 Finchley Road, London NW3 5JS (**"Boomerang"**) in respect of the Services, Software, Solutions and Documentation specified in the Agreement and to be provided by Boomerang to you pursuant to the Agreement.

We provide use of the Services, Softare, Solutions and Documentation to you on the basis of the Agreement. We do not sell the Software, Solutions or Documentation to you. We remain the owners of the Software, Solutions and Documentation at all times.

Capitalised terms used on this page shall have the meaning given to them in the Agreement.

Background

(A) Boomerang has developed certain software applications and platforms which it makes available to users via the internet on a pre-paid or post-paid basis for the purpose of transmitting Communications.

(B) The Customer wishes to use Boomerang's services in relation to its operations.

(C) Boomerang and the Customer wish to enter into this master services agreement to enable Boomerang to provide and the Customer to consume and pay for Boomerang's services pursuant to various statements of work and subject to the terms and conditions of this Agreement.

Agreed terms

1. Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Agreement.

"Agreement"	Means this Agreement, including the schedules, annexes attached thereto and statements of work made thereunder.
"Authorised Users"	those employees, agents and independent contractors of the Customer who are authorised by the Customer to use the Services and the Documentation, as further described in the Customer Service Information.
"API"	Means an application programming interface software application allowing the use of the Services via a connection to a third-party platform, either by way of a hosted service or installation on Customer's premises, including a plug-in or other similar application.

"Business Day"	a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.
"Change of Control"	shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.
"Confidential Information"	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 12.
“Communication”	Means an MMS, SMS, email, instant message, voice message and voice calls, data transmission, social media message and/or any other message (including the content of that message) and/or messaging process conveyed by use of the Services.
“Communication Address”	Means a code, telephone number, email and/or any other identifier and/or address from which a Communication is sent and/or received;
“Credits”	Means the monetary value paid by the Customer to Boomerang and from which Boomerang will deduct payment for messages sent by the Customer and service components selected by the Customer at the rates stated in the Customer Service Information;
"Customer Data"	the data owned and inputted by the Customer, Authorised Users, or Boomerang specifically on the Customer's behalf for the purpose of the Customer using the Services or facilitating the Customer's use of the Services.
“Customer Service Information”	Means information in respect of the Customer, Authorised Users and the Services to be provided to the Customer from time to time, as further specified by this Agreement and detailed in the Customer’s User Interface.
“Data Protection Legislation”	the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications).
"Documentation"	All and/or any documentation, manuals, information and/or data (and/or any part thereof including all updates and/or modifications) made available to the Customer by Boomerang from time to time in relation to and/or in

	connection with the Services and the user instructions in relation to the Services.
"Effective Date"	the date of your installation of or first access to the Services, Software, Solutions or Documentation.
"Fees"	the fees payable by the Customer to Boomerang for the Services, as set out in the Customer Service Information.
"Inclusive Communication Allowance"	means a fixed quantity or quantities of Communications or a credit value in respect of one or more specified destinations included as part of the Customer's subscription or purchased separately by the Customer; and as detailed in the Customer Service Information.
"Intellectual Property Rights"	All and/or any patents, utility models, rights to inventions, copyright and related rights, trade marks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software and data, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, including all applications for (and rights to apply for and be granted), renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world.
"Normal Business Hours"	9.00 am to 5.00 pm local UK time, each Business Day.
"Policy" or "Policies"	Boomerang's policies attached in Schedule 2 together with any other policies introduced by Boomerang of which the Customer is notified relating to the Services, as these may be updated or amended by notification to the Customer from time to time.
"Renewal Term"	Means a 12 month period starting from the last day of a Subscription Term and then each 12 month period beginning on the anniversary of the last day of a Subscription Term.
"Services"	Means the products, services, bolt-ons and Solutions offered by Boomerang and which the Customer subscribes for from time to time as described in Schedule 1 and on the terms as further set out in the applicable Service Annex and/or the Customer Service Information as the case may be.
"Service Annex"	Means a service annex to this Agreement;

"Service Level Agreement"	Means the service level agreement in respect of a Service as detailed in the relevant Service Annex or in the Customer Service Information;
"Software"	The software applications (including any API's) as provided by Boomerang as part of the Services.
"Solutions"	Means pre-designed configurable messaging workflows made available by Boomerang for use by the Customer in the relation to the Services.
"Subscription Term"	Shall mean in relation to a Service the period set out in the Customer Service Information; and where the Customer Service Information is included in the User Interface, from and including the date stated in the User Interface, together with any subsequent Renewal Terms.
"Third Party Suppliers"	Means all and/or any third party suppliers including network operators who provide or supply goods and/or services to or for Boomerang's use in order to assist and/or facilitate Boomerang in Boomerang's provision of the Services.
"UK Data Protection Legislation"	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.
"User Interface"	Means the user interface provided by Boomerang to the Customer from time to time in respect of the Services and allowing the Customer to access the Customer Service Information and other details of the Customer's account with Boomerang.

1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Agreement.

1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality). A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.

1.4 Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.

1.5 A reference to a statute or statutory provision is a reference to it as it is in force as at the date of this Agreement.

1.6 A reference to a statute or statutory provision shall include all subordinate legislation made as at the date of this Agreement under that statute or statutory provision.

1.7 A reference to writing or written includes faxes and email provided that if any notices are given by the Customer under this agreement which relate to major circumstances or events regarding the operation of this Agreement including any claims relating to material breach of this Agreement and/or termination of this Agreement then any email notices shall also be confirmed at the same time by fax and/or letter.

1.8 References to clauses, schedules and annexes are to the clauses, schedules and annexes of this Agreement; references to paragraphs are to paragraphs of the relevant schedule or annex to this Agreement.

1.9 Any words following the terms **including**, **include**, **in particular**, **for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms

2. Authorised Users

2.1 Subject to the Customer purchasing and using the Services in accordance with and subject to the terms and conditions of this Agreement, Boomerang hereby grants to the Customer a non-exclusive, non-transferable right, without the right to grant sub-licences, to permit the Authorised Users to use the Services and the Documentation during the Subscription Term solely for the Customer's business operations (which shall not include the onward sale or licensing of any of the Services).

2.2 The Customer undertakes that:

2.2.1 it will not allow or suffer any user subscription to be used by more than one individual Authorised User unless it has been reassigned in its entirety to another individual Authorised User, in which case the prior Authorised User shall no longer have any right to access or use the Services and/or Documentation;

2.2.2 each Authorised User shall keep a secure password for their use of the Services and Documentation, that such password shall be changed no less frequently than monthly and that each Authorised User shall keep his password confidential;

2.2.3 it shall manage current Authorised Users and ensure that access for any person who is no longer an Authorised User is removed;

2.2.4 it agrees that it and all Authorised Users will follow and comply with all instructions, guidelines and/or provisions of the Documentation in relation to the use of the Services;

2.2.5 it agrees that Boomerang’s records regarding Customer’s use of the Services shall be accepted at all times as correct (save for manifest error) and that if there are any issues regarding the Services then the Customer shall permit Boomerang to audit the use of the Services in order to gather information and establish the facts relating to such issues. Boomerang shall in any event have the right to audit Customer’s use of the Services provided that such audit may be conducted no more than once per quarter, at Boomerang's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Customer's normal conduct of business;

2.2.6 if any of the audits referred to in clause 2.2.5 reveal that any password has been provided to any individual who is not an Authorised User, then without prejudice to Boomerang's other rights, the Customer shall promptly disable such passwords and Boomerang shall not issue any new passwords to any such individual;

2.2.7 if any of the audits referred to in clause 2.2.5 reveal that the Customer has underpaid Fees to Boomerang, then without prejudice to Boomerang's other rights, the Customer shall pay to Boomerang an amount equal to such underpayment as calculated in accordance with the prices set out in the User Interface within 10 Business Days of the date of the relevant audit; and

2.2.8 if any of the audits referred to in clause 2.2.5 reveal that the Customer has overpaid Fees to Boomerang, then without prejudice to the Customer's other rights, Boomerang shall pay to the Customer an amount equal to such overpayment as calculated in accordance with the prices set out in the User Interface within 10 Business Days of the date of the relevant audit.

2.3 The Customer shall not access, store, distribute or transmit any material, information, documentation, or messages that contain or constitute viruses (including any destructive and/or disabling code) during the course of its use of the Services that:

2.3.1 is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive;

2.3.2 facilitates illegal activity;

2.3.3 depicts sexually explicit images;

2.3.4 promotes unlawful violence;

2.3.5 is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability;

2.3.6 is in breach of any agreement with any user, customer or client or any laws, regulations or other provisions that are applicable to the Customer, users, customers or clients in any territory; and/or

2.3.7 in a manner that is otherwise illegal or causes damage or injury to any person or property.

2.4 Boomerang reserves the right, without liability (of whatever nature and/or howsoever arising) and/or prejudice of whatever nature to any of its other rights to the Customer: (i) to access any Authorised User account for the purposes of assisting such Authorised User with any issues with the Service or otherwise in order to assess compliance with this Agreement; and (ii) upon written notice to the Customer, to forthwith terminate, suspend and/or disable the Customer's access to the Services and/or Information if Boomerang believes that the Customer has attempted to breach, is likely to breach and/or has breached any of the terms and conditions of this Agreement.

3. Use of the Software and Documentation

3.1 The Customer shall not except as may be allowed by any applicable law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement:

3.1.1 attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Services, Software and/or Documentation (as applicable) in any form or media or by any means;

3.1.2 attempt to reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software;

3.1.3 access all or any part of the Services and Documentation in order to build a product or service which competes (directly or indirectly) with the Services and/or the Documentation;

3.1.4 use the Services and/or Documentation to provide services to third parties except as expressly permitted by this Agreement or as otherwise expressly agreed in writing between the parties;

3.1.5 subject to clause 23.1, license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Services and/or Documentation available to any third party except as expressly permitted by this Agreement or as otherwise expressly agreed in writing between the parties;

3.1.6 attempt to obtain, or assist third parties in obtaining, access to the Services and/or Documentation, other than as provided under this clause 3; and

3.1.7 shall not use any API's apart from expressly authorised by Boomerang and shall follow all of Boomerang's instructions and directions regarding use of such API's including any restrictions set out in the Customer Service Information.

3.2 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and/or the Documentation and, in the event of any such unauthorised access or use, promptly notify Boomerang.

3.3 The rights provided under this clause 2 are granted to the Customer only, and shall not be considered granted to any subsidiary or holding company of the Customer.

4. Additional Services

4.1 Subject to clause 4.2, the Customer may, from time to time during any Subscription Term, purchase additional Services in excess of the Services originally ordered via the User Interface and Boomerang shall grant access to such additional Services and/or any additional Authorised Users via the User Interface and in accordance with and subject to the provisions of this Agreement.

4.2 If the Customer wishes to purchase additional Services, the Customer shall request such additional Services. Boomerang shall evaluate such request for additional Services and/or Authorised Users and respond to the Customer with approval or rejection of the request. Where approved any such services shall become Services for the purposes of this Agreement when accepted by Boomerang in the User Interface in respect of those Services.

5. Customer data

5.1 The Customer shall own all right, title and interest in and to all of the Customer Data that is not personal data and shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Customer Data.

5.2 In the event of any loss or damage to Customer Data, the Customer's exclusive remedy shall be for Boomerang to use reasonable commercial endeavours to restore the lost or damaged Customer Data from the latest back-up of such Customer Data maintained by Boomerang in accordance with the archiving procedure described in Boomerang's Policies. Boomerang shall not be responsible for any loss, destruction, alteration or disclosure of Customer Data caused by any third party (except to the extent that those third parties have been sub-contracted by Boomerang to perform services related to Customer Data maintenance and back-up).

5.3 Boomerang shall, in providing the Services, comply with its Policy relating to the privacy and security of the Customer Data. This Policy is available at the following URL: https://boomerangmessaging.com/privacy/ and updates to this Policy will be notified to the Customer by email and/or via the User Interface as such document may be amended from time to time by Boomerang in its sole discretion.

5.4 For the avoidance of doubt, nothing in this Agreement shall prevent Boomerang developing or utilising Solutions derived from know-how and learning generated by providing Services to the Customer and other customers.

6. Data protection

6.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 6 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.

6.2 Both parties acknowledge that:

6.3 if Boomerang processes any personal data on the Customer's behalf when performing its obligations under this Agreement, the Customer shall be the data controller and Boomerang shall be a data processor.

6.4 The scope, nature and purpose of processing by Boomerang, the duration of the processing and the types of personal data and categories of data subject shall be as detailed in Schedule 3 or in the Customer Service Information, which shall take precedence over Schedule 3 for the purposes of this clause 6.4.

6.5 Without prejudice to the generality of clause 6.1, the Customer retains control of the personal data and shall ensure at all times that the Customer is entitled to process and transfer the relevant information and personal data to Boomerang and that Boomerang can lawfully use, process and transfer the relevant information and personal data in order to provide the Services and/or in relation to this Agreement, in particular the Customer shall ensure that any required notices are provided to data subjects and any required consents are obtained via the opt-in features in the Services and that there is an appropriate lawful basis in place.

6.6 Without prejudice to the generality of **Error! Bookmark not defined.Error! Reference source not found.**, Boomerang shall, in relation to any personal data processed in connection with the performance by Boomerang of its obligations under this Agreement:

a. process that personal data only on the documented written instructions of Customer unless Boomerang is required by applicable laws to otherwise process that personal data;
b. ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
c. ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
d. not transfer any personal data outside the UK or the EEA unless the following conditions are fulfilled:

(i) the transfer is to a country approved as providing an adequate level of protection for the personal data; or
(ii) there are appropriate safeguards in place for the transfer of the personal data; or
(iii) binding corporate rules are in place; or
(iv) one of the derogations for specific situations applies to the transfer.

e. assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
f. notify the Customer without undue delay on becoming aware of a personal data breach;
g. at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Agreement unless required by applicable laws to store the personal data; and
h. maintain complete and accurate records and information to demonstrate its compliance with this clause 6 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of Boomerang an instruction infringes the Data Protection Legislation.

6.7 The Customer acknowledges and consents generally to the appointment by Boomerang of third parties as sub-processors of the personal data being processed under the Agreement.

6.8 Boomerang confirms that a) it shall impose on all sub-processors the same data protection obligations as set out in this clause 6; and b) it shall remain liable for the actions of its sub-processors.

7. Third party providers

7.1 The Customer acknowledges that the Services may enable or assist it to access the website content of, correspond with, use, download and purchase products and services from third parties via third-party websites and applications and that the Customer does so solely at its own risk.

7.2 Boomerang makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with and/or downloading in relation to any such third-party website and/or applications, or any transactions completed, and any contract entered into by the Customer, with any such third party.

7.3 Any contract entered into and any transaction completed via any third-party website and/or application and/or download is between the Customer and the relevant third party, and not Boomerang. Boomerang recommends that the Customer refers to the third party's website and/or application related terms and conditions and privacy policy prior to using the relevant third-party website and/or application and the Customer shall provide such information to the relevant third-party as is necessary for the provision of the third-party service. Boomerang does not endorse or approve any third-party website, application and/or download nor the content of any of the third-party website, application and/or download made available via the Services.

7.4 The Customer agrees and acknowledges that the Services provided are dependent upon the goods and/or services of Third Party Suppliers and, as such, if those third party providers change the way that they operate, their terms and conditions and/or the structure or ways in which they charge for their services (for example by introducing different message lengths or

storage volume restrictions etc.) or the charges for their service (for example by increasing message rates) then this will have an impact on the Services and, as such, Boomerang reserves the right to change, amend and/or update the way in which it provides the Services to the Customer or to increase the Fees in order to reflect the way that Boomerang has been impacted by such third party changes and in such circumstances Boomerang will provide no less than 30 days prior written notice to the Customer of such changes provided that in the case of immediate or changes at short notice by such Third Party Suppliers, Boomerang will provide the Customer with as much notice as reasonably practicable.

7.5 The Customer hereby agrees, acknowledges and accepts that Third Party Suppliers (including network operators) may apply service restrictions and limitations from time to time in relation to and/or in connection with the Services. Such restrictions and limitations may include:

7.5.1 imposing restrictions upon the length of a message (for example the number of characters). Where the Communication content exceeds any limit the Communication may be delivered and may be abbreviated based on the maximum characters allowed);

7.5.2 blocking Communications where the content of the Communication is repeated across high volumes of messages or high volumes are submitted to the same recipient or recipients; and/or

7.5.3 blocking Communications based on the originating / sender id associated to or with the Communication and/or amending the originating / sender Id associated to or with the Communication, preventing any replies being returned to Boomerang;

7.5.4 Communications not being marked as delivered by Boomerang due to the fact that not all network operators provide delivery status updates;

7.5.5 specific registrations or configurations being in place in order for successful delivery of Communications to take place.

7.5.6 In the event that Customer purchases a Communications Address (for example, an email address or phone number) from Boomerang but does not use such Communications Address for the purposes of outbound Communications pursuant to this Agreement, then Boomerang shall charge the Customer the amount per inbound Communication to such Communications Address as is specified in the Customer Service Information.

7.5.7 Pricing and payment terms and monies due, owing or payable to Boomerang shall be in accordance with this Agreement regardless of any restrictions and limitations that may be imposed by, relate to and/or be connected with Third Party Suppliers (including network operators).

7.5.8 The Customer hereby expressly agrees that it will indemnify Boomerang for all costs, charges, fees and losses (of whatever nature and howsoever arising) that are claimed by any Third Party Suppliers (including network operators) from and/or against Boomerang or are otherwise incurred by Boomerang in respect of such claims in relation to the Customer's use of the Services and/or the services provided by Third Party Supplier (including network operators) to the Customer.

8. Boomerang's obligations

8.1 Boomerang undertakes that the Services will be performed substantially in accordance with the Documentation and with reasonable skill and care.

8.2 The undertaking at clause 8.1 shall not apply to the extent of any non-conformance which is caused by use of the Services contrary to Boomerang's instructions, or modification or alteration of the Services by any party other than Boomerang or Boomerang's duly authorised contractors or agents. If the Services do not conform with the foregoing undertaking, Boomerang will, at its expense, use its reasonable commercial endeavours to correct any such non-conformance promptly, or provide the Customer with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 8.1. Notwithstanding the foregoing, Boomerang:

8.2.1 does not warrant that the Customer's use of the Services will be uninterrupted or error-free and/or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet all and/or any of the Customer's requirements; and

8.2.2 is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities; and

8.2.3 is not responsible for checking, advising upon, notifying and/or ensuring that the use of the Services by the Customer will achieve the benefits (of whatever nature) that the Customer is seeking to achieve and/or that use of the Services by the Customer is in accordance with and complies with any rules, regulations and/or codes which the Customer is subject to including any advertising, financial services and/or data protection laws and regulations.

8.3 This Agreement shall not prevent or hinder Boomerang from entering into similar agreements with third party customers or others, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

9. Customer's obligations

9.1 The Customer shall provide Boomerang:

9.1.1 with all reasonable co-operation, information and assistance in relation to this Agreement. In particular, it will appoint a representative who shall have the authority to contractually bind the Customer on all matters relating to this Agreement and the Customer shall use reasonable endeavours to ensure the continuity of the Customer’s representative;

9.1.2 with all necessary access to such information as may be required by Boomerang in order to provide the Services, including but not limited to Customer Data, security access information and configuration services.

9.2 The Customer shall at all times:

9.2.1 comply with all applicable laws and regulations with respect to its activities under this Agreement;

9.2.2 comply the with Policies;

9.2.3 carry out all other Customer responsibilities set out in this Agreement in a timely and efficient manner. In the event of any delays in the Customer's provision of such assistance as agreed

by the parties, Boomerang may adjust any agreed timetable or delivery schedule as reasonably necessary;

9.2.4 ensure that the Authorised Users use the Services and the Documentation in accordance with the terms and conditions of this Agreement and the Customer shall be responsible for any Authorised User's breach of this Agreement and/or misuse, unauthorised use and/or damage to the Services by Authorised Users;

9.2.5 hereby grant Boomerang all licences, consents and permissions to process, store, transmit and/or copy information and data (including Communications) as Boomerang may require from time to time in relation to performing its obligations in relation to this Agreement;

9.2.6 obtain and shall maintain all required and/or necessary licences, consents, and permissions that may be required for Boomerang, its contractors and agents to perform their obligations under this Agreement, including without limitation the Services and for Customer and any Authorised Users to receive any Services. This will include Customer obtaining permissions or consents from the relevant Authorised Users and/or third parties where required and complying with local laws including in relation to data protection and privacy;

9.2.7 ensure that its network and systems are fully operational and in proper working order and comply with the relevant specifications provided by Boomerang from time to time;

9.2.8 be entirely responsible for procuring and maintaining and monitoring: (i) its network connections, communications links and and telecommunications services or infrastructure (including inbound numbers) between its systems and Boomerang's data centres and networks; (ii) any application programming interfaces and software applications used in conjunction with the Servics and not provided by Boomerang as part of the Services, (together, the "**Customer Communications Infrstructure**"), and all problems, conditions, delays, delivery failures and all other loss or damage arising from and/or relating to the Customer Communication Infrastructure and/or issues caused by or arising from the Customer's use of the internet;

9.2.9 be responsible for the accuracy, completeness and integrity of all Customer Data inputted by the Customer or any Authorised User or otherwise provided to Boomerang in relation to the Services;

9.2.10 be responsible for testing the Services in their production environment prior to any use of the Services;

9.2.11 be responsible for all processes they build and alterations they make to the Services and shall ensure they carry out testing for bugs and fixes before using the Services as altered or the processes built by the Customer with their end users and customers;

9.2.12 be responsible for all unauthorised use made of any Services and for the costs incurred in respect of any spamming of a Communication Address provided by Boomerang save where such spamming or unauthorised use results from Boomerang's default; inform Authorised Users and/or third parties that Customer is the provider of the Services to them as between Boomerang and Customer, and Customer hereby agrees that Customer is solely responsible for any Communications that are originated from and/or transmitted to end users and/or third parties using the Services;

9.2.13 endeavour not to include non-GSM encoded characters in Communications save where it is necessary to do so and acknowledges that the inclusion of non-GSM encoded characters may

result in additional charges for Communications due to the fact that a single Communication containing any non-GSM encoded characters, may only include 70 characters.

10. Charges and payment

10.1 The Customer shall pay the Fees to Boomerang for the Services in accordance with this clause 10 and any relevant Service Annex.

10.2 Fees are based (in part) upon charges that are charged by Third Party Suppliers (including network operators) and so are not subject to discounts or credits. Third Party Suppliers (including network operators) will charge Boomerang for various services which Boomerang will in turn charge the Customer for which shall include: (i) Communications transmitted but not received for whatever reason; and (ii) long messages which are billed as separate Communications; (iii) Communications which are billed according to the encoding of the characters contained in the body of the Communication and the network technology used by the destination Third Party Supplier (including network operators). For example, a single part, billable message, may contain a maximum of 160 GSM encoded characters and a multi-part message is billed in segments of 153 characters. A single part message containing Unicode characters may contain only 70 characters and and a multi-part message is billed in segments of 67 characters. (iv) Boomerang reserves the right to change the methods by which it charges for services (including billing in units for different types of Services). Charges charged by Third Party Suppliers may be subject to increase and any such increases will be passed to the Customer pursuant to clause 7.4.

10.3 The Customer acknowledges that Communication rates vary depending on the destination in which a Communication is received or responded to by the end recipient. A default account rate and the rates that apply to different destinations shall be those set out in any relevant Service Annex or the Customer Service Information as updated from time to time.

10.4 The Customer shall on the Effective Date provide to Boomerang accurate, valid, up-to-date and complete payment details (which may include credit card, Paypal, direct debit, standing order and/or any other payment method and process) and/or approved purchase order information acceptable to Boomerang and any other relevant accurate, valid, up-to-date and complete contact and billing details and, if the Customer provides:

10.4.1 its payment details to Boomerang, the Customer hereby expressly authorises Boomerang to invoice the Customer in advance using such payment details:

(a) on the Effective Date for the Fees payable in respect of the Subscription Term; and

(b) subject to clause 15.1, on each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Term; and

10.4.2 its approved purchase order information to Boomerang, Boomerang shall invoice the Customer:

(i) on the Effective Date for the Fees payable in respect of the initial Subscription Term; and

(ii) subject to clause 15.1, at least 30 days prior to each anniversary of the Effective Date for the Fees payable in respect of the next Renewal Term, and the Customer shall pay each invoice according to the payment notice period set out in the relevant Service Annex or the Customer Service Information.

10.5 Boomerang reserves the right to charge an additional 2.5% in respect of any Fees paid by way of credit card or Paypal.

10.6 If Boomerang has not received payment within 14 days after the due date, and without prejudice to any other rights and remedies of Boomerang:

10.6.1 Boomerang may after providing 5 Business Days' written notice to the Customer, without any liability (of whatever nature and howsoever arising) to the Customer, disable the Customer's password, account and access to all or part of the Services and Boomerang shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and

10.6.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 5% over the then current base lending rate of HSBC Bank plc from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.

10.7 All amounts and fees stated or referred to in this Agreement:

10.7.1 shall be payable in the currency set out in the Customer Service Information;

10.7.2 are, subject to clause 14.4, non-cancellable and non-refundable;

10.7.3 are exclusive of value added tax (where applicable), which shall be added to Boomerang's invoice(s) at the appropriate rate.

10.8 If, at any time whilst using the Services, the Customer exceeds the amount of storage space specified in the Documentation and/or incurs additional charges by not complying with the Policies, Boomerang shall (at Boomerang's absolute discretion) charge the Customer, and the Customer shall pay, Boomerang's then current excess data usage, management and/or storage fees and fees due as a result of not complying with the Policies. Boomerang's excess data usage, management and/or storage fees current as at the Effective Date are set out in the Customer Service Information.

10.9 Boomerang shall be entitled to increase and invoice the Customer in respect of the fees payable in respect of the additional Services purchased pursuant to clause 4, the addition of more Authorised Users and/or the excess storage fees payable pursuant to clause 10.8 from the date on which such additional Services, Authorised Users and/or storage commence and to invoice and charge the Customer in advance for the remainder of the Subscription Term or Renewal Term as the case may be and any applicable Customer Service Informationshall be deemed to have been amended accordingly. The Customer acknowledges and agrees that during the Subscription Term the Customer shall not be entitled to downgrade the usage band selected at the beginning of the term and that the usage band may only be upgraded provided that where the Customer exceeds their usage band for a period of 60 days or more Boomerang may require the Customer to move to the appropriate usage band for the remainder of the Subscription Term.

10.10 All invoices will be compiled from Boomerang's records and will be deemed to be correct unless disputed by the Customer within 20 days of the date of the invoice with details of the reasons for the dispute.

10.11 In the event that Customer disputes any invoice in relation to any charges made by a Third Party Supplier (including a network operator) then Customer shall pay that invoice but Boomerang will investigate the nature of the dispute and raise this with the relevant Third Party Supplier (including a network operator) and if that Third Party Supplier (including any

network operator) refunds any amounts then Boomerang will refund the appropriate amounts (less Boomerang fees and charges) to the Customer.

10.12 Where the Customer is a credit customer payment must be made for subscription fees, Communication charges and any other charges or fees within 14 days of Boomerang's invoice.

10.13 Where the Customer is a pre-payment customer: (i) the Customer shall pre-purchase Credits from the credit bundles available through the User Interface which Credits shall be non-refundable and Boomerang will allocate the corresponding number of Credits accordingly; (ii) the Credits are only valid for the Subscription Term and fees incurred over and above the pre-paid Credits will be paid by Customer to Boomerang and payable according to the payment notice period set out in the relevant Service Annex; (iii) Customer is solely responsible for pre-payment Credits purchased and must ensure it has sufficient Credits for its requirements from time to time and Boomerang shall not be liable or responsible if the Customer has insufficient Credits for its requirements and/or exceeds the number of pre-paid Credits although Boomerang will notify the Customer from time to time by email or in the User Interface when Credits are low; (iv) Boomerang may deduct from any pre-payment Credits any sums due to Boomerang from the Customer; (v) Credits will only be redeemable against the Services in respect of which they have been purchased and to which they relate and cannot be used for other Services (vi) where Boomerang has provided an Inclusive Communication Allowance with any Service the Inclusive Communication Allowance will be used prior to any pre-purchased Credit being charged; (vii) if Customer changes its subscription it will be invoiced by Boomerang for the new subscription and this must be paid by Customer according to the payment notice period set out in the applicable Service Annex;and viii) where an Inclusive Communication Allowance has been issued to the Customer as part of their subscription or purchased separately by the Customer and Boomerang increases its Communication rates the balance of the Inclusive Communication Allowance will be adjusted to reflect the increase.

10.14 After the first Subscription Term Boomerang may increase any of the Fees on giving the Customer no less than 30 days' notice of any such increase and the Customer may terminate this Agreement within 30 days of receiving any such notice of any increase by giving notice to take effect no sooner than the date on which the increase in Fees was to become effective provided that notwithstanding the provisions of this clause 10.14, Boomerang shall be entitled to increase the Fees at any time in accordance with the provisions of clause 7.4.

11. Proprietary rights

11.1 The Customer acknowledges and agrees that Boomerang and/or its licensors own all right, title and interest (including all Intellectual Property Rights) in relation to and/or in connection with the Services (including the Communication Addresses) and the Documentation (and all modifications, updates and/or changes to all of the foregoing).

11.2 Except as expressly stated herein, this Agreement does not grant the Customer any rights to, or in, any Intellectual Property Rights and/or or any other rights or licences in respect of the Services or the Documentation.

11.3 Boomerang confirms that it has all the rights in relation to the Services and the Documentation that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

12. Confidentiality

12.1 Each party may be given access to Confidential Information from the other party in order to perform its obligations under this Agreement. A party's Confidential Information shall not be deemed to include information to the extent that it:

12.1.1 is or becomes publicly known other than through any act or omission of the receiving party;

12.1.2 was in the other party's lawful possession before the disclosure;

12.1.3 is lawfully disclosed to the receiving party by a third party without restriction on disclosure;

12.1.4 is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.

12.2 Each party shall hold the other's Confidential Information in confidence and, unless and to the extent required by law, not make the other's Confidential Information available to any third party, or use the other's Confidential Information for any purpose other than the implementation of this Agreement.

12.3 Each party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Agreement.

12.4 Neither party shall be responsible and/or liable for any loss, destruction, alteration and/or disclosure (of whatever nature and howsoever arising) of Confidential Information caused (directly or indirectly) by the acts and/or omissions of any third party that is not under a written duty of confidentiality to the relevant party hereto provided that each party shall be liable for the acts or omissions of its directors, employees, contractors or consultants and the Customer shall be liable for the acts or omissions of any Authorised Users.

12.5 The Customer acknowledges that details of the Services, and the results of any performance tests of the Services, constitute Boomerang's Confidential Information.

12.6 Boomerang acknowledges that the Customer Data is the Confidential Information of the Customer.

12.7 No party shall make, or permit any person to make, any public announcement and/or statement (whether in writing or otherwise) concerning this Agreement without the prior written consent of the other parties (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction provided that Boomerang may refer to the Customer and this deal and/or transaction on Boomerang’s website and/or in Boomerang promotional documentation and materials.

12.8 The above provisions of this clause 12 shall survive termination of this Agreement, however arising.

13. Use of Services and indemnity

13.1 The Services must not in any circumstances be used for emergency services (e.g 999 calls or 112 calls) and/or in circumstances where, should there be any issues with the Services (for example delays with Communications) any party or person could suffer death or personal injury provided that such use may be allowed by Boomerang where this is expressly and

specifically set out and agreed in the Customer Service Information. If, notwithstanding this prohibition (and even if such use is expressly permitted in the Customer Service Information), the Customer will be entirely responsible for such use and such use shall be at the Customer's own risk and the provisions of this clause 13 shall also apply to such use.

13.2 The Customer shall be entirely responsible for and shall defend, indemnify and hold harmless Boomerang against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with any claims brought against Boomerang by any third parties (including Authorised Users) in relation to or in connection with the Customer's use of the Services and/or this Agreement (including the sending and/or receiving of any Communications and/or in relation to the content of any Communications) provided that:

13.2.1 the Customer is given notice of any such claim by Boomerang;

13.2.2 Boomerang provides reasonable co-operation to the Customer in the defence and settlement of such claim, at the Customer's expense; and

13.2.3 the Customer is given sole authority to defend or settle the claim provided that the terms and/or consequences of settlement do not in any way adversely affect Boomerang.

13.3 Boomerang shall defend the Customer, its officers, directors and employees against any damages awarded against Customer as a result of any third party claim that the Services or Documentation infringes any third party Intellectual Property Rights provided that:

13.3.1 Boomerang is given prompt written notice of any such claim;

13.3.2 the Customer provides reasonable co-operation to Boomerang in the defence and settlement of such claim, at Boomerang's reasonable expense; and

13.3.3 Boomerang is given sole authority to defend or settle the claim.

13.4 In the defence or settlement of any claim, Boomerang may procure the right for the Customer to continue using the Services, replace or modify the Services so that they become non-infringing or, if such remedies are not reasonably available, terminate this Agreement on 14 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.

13.5 In no event shall Boomerang, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:

13.5.1 a modification and/or change of the Services and/or Documentation by anyone other than Boomerang;

13.5.2 the Customer's use of the Services and/or Documentation in a manner contrary to the instructions given to the Customer by Boomerang and/or in a manner contrary to any of the terms and conditions of this Agreement; and/or

13.5.3 the Customer's use of the Services or Documentation after notice of the alleged or actual infringement from Boomerang or any appropriate authority.

13.6 The foregoing and clause 13.4 state the Customer's sole and exclusive rights and remedies, and Boomerang's (including Boomerang's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any Intellectual Property Rights.

14. Limitation of liability

14.1 This clause 14 sets out the entire liability of Boomerang (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Customer:

14.1.1 arising under or in connection with this Agreement;

14.1.2 in respect of any use made by the Customer of the Services and Documentation or any part of them; and

14.1.3 in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Agreement.

14.2 Except as expressly and specifically provided in this Agreement:

14.2.1 the Customer assumes the entire responsibility for results and outcomes obtained from the use of the Services and the Documentation by the Customer, including for benefits and/or conclusions drawn from such use;

14.2.2 Boomerang shall have no liability for delayed or failed delivery of any Communication and/or any reply to any Communication including where such delay or failure is due to user error, Third Party Suppliers (including network operators) and/or processing and/or transmission errors;

14.2.3 Boomerang shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Boomerang by the Customer in connection with the Services, or any actions taken by Boomerang at the Customer's direction;

14.2.4 the Customer hereby expressly accepts and acknowledges that Boomerang will not be liable or responsible (in whatever way and howsoever arising) for:

(i) the operation and processing by Third Party Suppliers (including network operators) of Communications. The results of actions by Third Party Suppliers (including network operators) may include Communications being delayed, not being transmitted to recipients and/or not being received by recipients;

(ii) the correct operation of equipment, services, Communication Addresses and/or resources of senders and recipients of Communications (for example ensuring that user mobile phones and/or other devices are switched on). The results of this may include Communications being delayed or not being transmitted to and/or from recipients and/or not being received by recipients;

(iii) Customer and/or end user error, misuse (whether intentional or unintentional) and/or unauthorised use of the Services, including costs incurred in respect of any spamming or “SMS or Communication pumping” through use of a Communication Address, API or Software provided by Boomerang save where such spamming or unauthorised use results from Boomerang’s breach of this Agreement;

(iv) any Communications that are originated from and/or transmitted to end users and/or third-parties using the Services, including: (i) the content of any such Communications submitted by the recipient; and (ii) where those messages include non-GSM encoded characters which result in additional charges for Communications due to the fact that a single Communication may only include 70 non-GSM encoded characters;

(v) the Customer selection and/or use of the Services including where Customer's use of the Services is for purposes for which the Services were not designed and/or for which they were not intended to be used; and/or

(vi) any losses of whatever nature (and whether direct and/or indirect) which relate to or are connected with the Customer not achieving its anticipated benefits or advantages by using the Services.

14.2.5 all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Agreement; and

14.2.6 the Services and the Documentation are provided to the Customer on an "as is" basis. The Customer must check and satisfy itself that it is entitled to use the Services in its selected jurisdictions for the purposes which it requires and ensure that it complies at all times with all rules and regulations regarding the purposes and ways in which it uses the Services in its selected jurisdictions (including all rules and regulations relating to data protection and privacy).

14.3 Nothing in this Agreement limits and/or excludes the liability of Boomerang:

14.3.1 for death or personal injury caused by Boomerang's negligence;

14.3.2 for fraud or fraudulent misrepresentation; and/or

14.3.3 for events or circumstances to the extent to which they cannot be excluded or limited by law.

14.4 The grant of service credits under a Service Level Agreement shall be Boomerang's entire total maximum aggregate liability in relation to the Services which those service credits cover and the parties hereby agree that such service credits are in full and final settlement of any claims relating to: (i) any failure of the Services to achieve the service level targets set out in the Service Level Agreement or any other failures or faults with the Service; and/or (ii) Boomerang's failure to remedy faults or failures within agreed repair times or otherwise in accordance with the Service Level Agreement.

14.5 Subject to clause 14.2, 14.3 and 14.4:

14.5.1 Boomerang shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits (whether direct and/or indirect), loss of business, loss of anticipated savings, depletion of goodwill and/or similar losses and/or loss or corruption of data or information;

14.5.2 Boomerang shall not be liable for any special, indirect and/or consequential loss, costs, damages, charges or expenses however arising under this Agreement; and

14.5.3 Boomerang's total maximum aggregate liability in contract (including in respect of the indemnity at clause 13.3), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement in each year from the anniversary of the Effective Date shall be limited to the annual value of Services provided by Boomerang to the Customer in such year.

14.6 The parties hereby expressly agree that the terms and conditions of this agreement (including those in clause 13) are reasonable and that each party has had the opportunity to negotiate

these terms and take legal advice on them and the allocation of responsibility between the parties is reflected in the charges and that each party has entered into this agreement in its own respective commercial interests.

14.7 Neither party shall make any statements or claims which conflict with and/or are inconsistent and/or contrary to clause 14.6.

14.8 All references to "Boomerang" in this clause 14 shall, for the purposes of this clause and clause 13 only, be treated as including all employees, officers, subcontractors and agents of Boomerang, all of whom shall have the benefit of the exclusions and limitations of liability set out in this clause 14.

15. Term, Termination & Suspension

15.1 This Agreement shall continue for the longer of: (i) a period of five years from the Effective Date; and (ii) the remaining Subscription Term or Renewal Term of any Services, unless otherwise terminated as provided in this clause 15 as follows:

15.1.1 by either party on 30 days written notice to the other party provided that the terms of this Agreement shall continue to apply to any then current Services until their expiry or earlier termination on written notice to the other party, such notice to be given at least 30 days before the end of the applicable Subscription Term or any applicable Renewal Term, in which case this Agreement shall terminate in respect of such Service upon the expiry of the applicable Subscription Term or Renewal Term; or

15.1.2 otherwise terminated in accordance with the provisions of this Agreement.

15.2 Without affecting any other right or remedy available to it, either party may terminate this Agreement or individual Service with immediate effect by giving written notice to the other party if:

15.2.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than the payment notice period stated in the applicable Service Annex or the Customer Service Information after being notified in writing to make such payment;

15.2.2 the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

15.2.3 the other party commits a persistent breach of any other term of this Agreement and fails to adequately remedy such breach within a period of 30 days after being notified in writing to do so. For the purposes of this clause, a breach will be deemed to be "persistent" if it is repeated sufficiently often (over a period of at least three (3) months) to have a material impact on the conduct of the other party's business;

15.2.4 the other party suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 and/or becomes insolvent and/or enters into any process or procedure which is similar to and/or equivalent to insolvency; and/or

15.2.5 any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.2.3.

15.3 Boomerang may (without any liability of whatever nature and howsoever arising), suspend forthwith some or all of the Services to the Customer upon notice to the Customer if:

15.3.1 Boomerang is entitled to terminate this Agreement;

15.3.2 Boomerang is instructed or requested to do so by any governmental body or agency, an emergency services organisation, any competent authority and/or Court;

15.3.3 Any Third Party Supplier (including a network operator) ceases to provide services and/or changes the way it operates, does business and/or charges for its services;

15.3.4 Boomerang believes that it is necessary or desirable to do so for legal or other regulatory reasons including in relation to any issues relating to data protection and/or privacy laws and regulations;

15.3.5 The Customer is about to undergo any Change of Control; and/or

15.3.6 Boomerang believes or becomes aware that Customer or an Authorised User has breached the terms of this Agreement, is attempting to breach the terms of this Agreement and/or is planning to do so and/or Boomerang believes that the Customer is using the Services in such a way that could lead to Boomerang suffering or incurring liability and/or losses or would bring Boomerang into disrepute.

15.4 Any suspension of the Services by Boomerang shall entitle Boomerang to terminate this Agreement or individual Service. Any suspension of the Services by Boomerang shall not exclude or affect any other right or remedy to which Boomerang may be entitled under this Agreement and the Customer shall still be obliged to pay all charges and fees that may be due, payable and/or owing in relation to this Agreement.

15.5 If the Service is suspended then Boomerang shall reinstate such Service as soon as reasonably practicable after the event giving rise to such suspension has been resolved or lifted to Boomerang's reasonable satisfaction. If the Service is re-instated then Boomerang may charge a reconnection fee.

15.6 On termination or expiry of this Agreement or individual Service for any reason any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination shall not be affected or prejudiced.

15.7 On termination or expiry of any Service:

15.7.1 all licences granted in respect of such Service shall immediately terminate;

15.7.2 each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party relating to such Service; and

15.7.3 Boomerang may destroy or otherwise dispose of any of the Customer Data relating to such Service in its possession unless Boomerang receives, no later than ten days after the effective date of the termination of such Service, a written request for the delivery to the Customer of the then most recent back-up of the relevant Customer Data. Boomerang shall use reasonable commercial endeavours to deliver the back-up to the Customer in such format and on such media as Boomerang selects within 30 days of its receipt of such a written request, provided that the Customer has, at that time, paid all fees and charges outstanding at and resulting

from termination (whether or not these are due for payment at the date of termination). The Customer shall pay all reasonable expenses incurred by Boomerang in returning or disposing of Customer Data.

16. Force majeure

Boomerang shall have no liability to the Customer under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of Boomerang or any other party), failure of a utility service or transport or telecommunications network, acts and/or omissions of Third Party Suppliers (including network operators), acts of God, war, riot, civil commotion, malicious damage, pandemic, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant, machinery and/or the internet, fire, flood, storm and/or acts or omissions of third parties, provided that the Customer is notified of such an event and its expected duration. Nothing in this clause shall entitle the Customer to delay, withhold and/or not pay any monies that may be due, owing and/or payable to Boomerang.

17. Conflict

If there is an inconsistency between any of the provisions in the main body of this Agreement; the Schedules; any Service Annex; or any Customer Service Information, the provisions of the documents shall prevail in the reverse order to which they are stated in this clause.

18. Variation

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

19. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

20. Rights and remedies

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

21. Severance

21.1 If any provision (or part of a provision) of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

21.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

22. Entire agreement

22.1 This Agreement, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous discussions, negotiations, proposals, product information, arrangements, agreements, understandings, and/or course of trade or conduct (whether in writing or otherwise) between them relating to the subject matter they cover.

22.2 Each of the parties expressly acknowledges and agrees that in entering into this Agreement it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Agreement or not) relating to the subject matter of this Agreement, other than as expressly set out in writing in this Agreement.

22.3 Any terms and conditions contained in any Customer purchase order, agreement and/or document shall be invalid and shall not be relevant to this Agreement unless expressly agreed to in writing by Boomerang and signed by Boomerang.

22.4 All dates and times that are given in relation to the Services are estimates only and Boomerang shall have no liability in relation to meeting such times and dates.

22.5 Nothing in this clause shall exclude or limit any liability or responsibility in relation to any fraudulent misrepresentations.

23. Assignment

23.1 Subject to clause 23.2, neither party shall without the prior written consent of the other party (such consent not to be unreasonably withheld or delayed), assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement.

23.2 Boomerang may at any time assign, transfer, sub-contract and/or deal in any other manner with all and/or any of its rights or obligations under this Agreement in respect of or to: (i) any Boomerang group company or connected company; and/or (b) to any successor or assignee of Boomerang through any merger or acquisition of assets, provided that Boomerang shall remain primarily liable to the Customer for the performance of Boomerang's obligations in this Agreement. A Boomerang group company shall include any other person controlling, controlled by or under common control with Boomerang where "control" and related terms means the ability to direct the affairs of Boomerang whether by means of the holding of shares, or the possession of voting power, by virtue of any powers conferred by its constitutional or corporate documents or otherwise.

24. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

25. Third party rights

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

26. Notices

26.1 Any notice required to be given under this Agreement shall be in writing and shall be: (i) sent to the other party at the email address given by the Customer to Boomerang from time to time and to Boomerang to operations@boomcomms.com provided that where the sender does not receive a read receipt or an acknowledgement from the recipient that the notice has been received within two Business Days of sending the notice the sender shall send a copy of the notice by post or by hand to the address of the party given in this Agreement or the Customer's address as set out in the Customer Service Informationand delivery shall be deemed to have occurred on receipt of the notice by post or hand in accordance with clause 26.2 below; or (ii) where such notice relates to information contained within the Customer Service Information and such Customer Service Information is permitted to be entered by way of the User Interface, by entering such information by way of the User Interface (provided that if any such notice relates to a dispute in respect of any aspect of this Agreement, such notice shall be given using the mechanism detailed in sub-clause (i) of this clause 26).

26.2 This clause 26.2 sets out for each delivery method referred to in clause 26.1 above, the date and time when the notice is deemed to have been received or given (provided all the other requirements of this clause have been satisfied and subject to the provision of clause 26.3):

26.2.1 if by way of information being entered via the User Interface, when such information is entered;

26.2.2 if delivered by hand at the time the notice is left at the address;

26.2.3 if sent by pre-paid first class post or other next working day delivery service, at 9.00am on the second Business Day after posting;

26.2.4 if sent by pre-paid airmail at 9.00am on the fifth Business Day after posting; or

26.2.5 if sent by email, at the time of transmission.

26.3 If deemed receipt under clause 26.2 would occur outside business hours in the place of receipt, it shall be deferred until business hours resume. In this clause 26.3, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

26.4 This clause does not apply to the service of proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

27. Set Off

The Customer hereby waives any and all existing and future set offs against any of the Fees and agrees to pay the Fees and any other sums due hereunder regardless of any set off or cross claim that the Customer may have against Boomerang and/or any third party.

28. Governing law and Jurisdiction

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales and each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) and provided that Boomerang shall be entitled

to enforce its rights and remedies (including its intellectual property rights) both within and/or outside England against the Customer.

Schedule 1 – Services

Those services made available by Boomerang to the Customer from time to time, including, as at the date of this Agreement:

boomAlert – Automation of incident and event communications

boomCast – Broadcast messaging from a dynamic, feature rich user interface

boomMail – Email-2-SMS and Email-2-Voice messaging.

Schedule 2 - Policies

To download the current version of Boomerang's Policies, select the links below. Please note that Boomerang may update these policies from time by updating these links.

1. Privacy Policy

2. Fair & Acceptable Use Policy (FAUP)

3. Data Protection Policy

4. Anti-Corruption Policy

Schedule 3 – Data Protection – Processing Instructions

Data Protection – Processing Instructions

1.1 The Data processing activities carried out by Boomerang under this Agreement may be described as follows:

1.2 Subject matter of processing

The transmission of Communications using software applications and platforms for use by the Customer for its business operations.

1.3 Nature and purpose of processing

The processing of the Personal Data received from the Customer or any Authorised User for the purpose of supply the Services to the Customer, including but not limited to collecting, recording, organising, structuring, storing, retrieving, disclosing and transmitting the Personal Data.

1.4 Categories of personal data

Name, email address, telephone number, address

1.5 Personal Data processed by Boomerang may include the following special categories of data

No special categories of data being processed

1.6 Categories of data subjects

The Customer, the Authorised Users and customers of the Customer

1.7 Duration

The term of the Services

1.8 The Customer hereby acknowledges and agrees that Boomerang may utilise the following sub-processors for the particular processing as detailed on the Boomerang website, as updated from time-to-time:

Sub-Processors - Boomerang Messaging

Or in respect of each paragraph above as otherwise amended in the Customer Service Information.

ANNEX 1 - SAAS SERVICES

Part 1 – SAAS SERVICES

1.1 Boomerang shall, during the Subscription Term, provide the SaaS Services and make available the Documentation to the Customer on and subject to the terms of the Agreement including this Service Annex and the Customer Service Information. Details regarding the SaaS Services and how they will be performed are set out in the Service Level Agreement.

1.2 Boomerang shall use commercially reasonable endeavours to make the SaaS Services available 24 hours a day, seven days a week, except for:

1.2.1 planned maintenance carried out during the maintenance window which is outside of Normal Business Hours. Where possible Boomerang will undertake planned maintenance between 2300 hours and 0100 hours;

1.2.2 unscheduled maintenance performed outside Normal Business Hours, provided that Boomerang has used reasonable endeavours to give the Customer at least 2 hours' notice in advance; and/or

1.2.3 in circumstances where Boomerang believes that SaaS Services need to be maintained and/or suspended due to urgent actions required by Boomerang to safeguard and/or secure the Services and/or ensure the continued proper operation of the SaaS Services (including any emergency situations, denial of service attacks and/or changes made by any Third Party Suppliers (including network operators) and in such circumstances Boomerang will give the Customer as much notice as reasonably practicable.

1.3 Boomerang reserves the right to restrict or throttle the number of Communications or the frequency of requests to retrieve data being sent by the Customer using its API where: (i) in Boomerang's opinion it is necessary to do so in order to ensure that the operation of its system is not adversely affected by the number of Communications being placed into the system at any time by the Customer; or (ii) where Boomerang reasonably believes that the Customer or any Authorised User is not in compliance with the Fair & Acceptable Use Policy or any other policy.

1.4 Boomerang will allocate Communication Addresses to the Customer as Boomerang deems necessary or desirable. This will depend (in part) upon the nature and type of SaaS Services that are required by the Customer, the availability of Communication Addresses, the business operations and practices of Third Party Suppliers (including network operators) and the directions and guidelines of regulators. The Customer hereby acknowledges and agrees that in certain circumstances Boomerang may need to change the Communication Addresses (for example telephone numbers) which it has allocated to the Customer including when Third Party Suppliers (including network operators) have issues regarding the transmission and/or receipt of Communications (for example texts) from Communication Addresses (for example telephone numbers) which have been allocated to the Customer. In such circumstances Boomerang will provide the Customer with as much notice as reasonably practicable regarding any such changes to Communication Addresses.

1.5 Boomerang will notify the Customer about significant updates to the Documentation that have been made no less frequently than the later of once every quarter and/or in the next version release of that Documentation. If Boomerang believes that there are significant and material issues that need to be notified to the Customer in relation to the Documentation then Boomerang will notify the Customer of such issues from time to time and as and when Boomerang deems necessary.

1.6 Boomerang will as part of the SaaS Services and subject to agreement regarding the terms, content and price of the services, provide the Customer with Boomerang's basic customer support services during Normal Business Hours in accordance with and subject to the provisions of the Service Level Agreement. The Customer may purchase enhanced support services separately at Boomerang's then current rates.

Part 2 – SERVICE LEVEL AGREEMENT

1. GENERAL

Capitalised terms used in this Service Level Agreement ("**SLA**") but not defined shall have the meaning given in the Agreement to which this SLA forms part.

Boomerang shall use reasonable endeavours to maintain the System (as defined below) and manage fault reporting as described in this SLA. Certain parts of this SLA (including in particular the Target Service Levels) are applicable only to those Customers who subscribe for and are Boomcare Premium Customers.

The Target Service Levels set out in this Schedule apply only to the System and do not apply to any other Services whether such Services are available at the time of signature of the Agreement or acceptance by Boomerang of an Order unless Boomerang has expressly agreed in writing that such Target Service Levels will apply.

2. DEFINITIONS

2.1 In this SLA

2.1.1 "**Boomcare Premium**" has the meaning given in the section Boomerang Support Packages – Boomcare in Section 4 below.

2.1.2 "**Scheduled Maintenance**" means planned maintenance of the System.

2.1.3 "**Service Credits**" means a service credit as further described in Section 5.

2.1.4 "**Service Request**", is defined as any support-related request for assistance by a customer to Boomerang via email or a phone call to the provided support number.

2.1.5 "**Solution Time**" is the time from when a problem is reported to or identified by Boomerang until resolution of the problem.

2.1.6 "**System**" means the Service but limited to those parts of the Service which are under Boomerang's direct control (this specifically excludes infrastructure, environments and underlying services provided by Network Operators or of Customers).

2.1.7 "**System Availability**" means the availability of the System calculated as provided in section 6 below.

2.1.7 "**Target Service Levels**" means the target figures set out in the section Target Service Levels, that apply in respect of Boomcare Premium Customers.

2 OPERATION & MAINTENANCE

2.1 Operations Services

Boomerang will manage and operate the System and shall have sole discretion in respect of the same. Without prejudice to the foregoing, operations will consist of the following:

2.1.1 System Updates

Boomerang will implement all system updates (with same or higher functionality) to the System when in Boomerang's determination, such updates are necessary to meet the target performance

indicators outlined in Section 5. Boomerang will deploy additional hardware and software as it determines are required to address System performance measurements from time to time.

2.1.2 Performance Management

Boomerang will record performance of the System. This includes the retrieval and analysis of statistical data from the System to confirm whether the Target Service Levels are being met and the System is performing according to design. Boomerang will provide System support, monitoring and maintenance of the System in accordance with paragraph 4.1 of this SLA with the response time for such support depending on the level of support selected by each Customer. Boomerang will provide Customers with notice of any System service affecting issues or a suspected problem through agreed notification method such as e-mail, SMS or via the Boomerang website.

2.1.3 Fault Management

Boomerang will provide fault management and recovery of the System. This includes logging of alarms, acting on alarms, and resolving the cause or limiting the effect.

2.1.4 Data Management

Boomerang will provide data management for the System. The activities to be performed by the Service Provider include executing scheduled backups.

2.1.5 Maintenance

Boomerang will provide routine maintenance for the System in accordance with its determined requirements. The activities to be performed by Boomerang may include:

- Preventive Maintenance
- Validity testing of security backups
- Corrective Maintenance
- Replacement of faulty hardware units

3 SUPPORT ARRANGEMENTS

3.1 Operational Service Support overview and responsibilities

3.1.1 The operational Service comprises of:

- Boomerang Messaging (API interfaces and messaging gateway)
- Boomerang User Interface (all products contained therewithin)
- Boommail (Email-to-SMS and Email-to-Voice)

3.1.2 Boomerang is responsible for providing the following operational support:

3.1.2.1 Proactive Operational Support

- Service Monitoring
- Notification of planned outages

3.1.2.2 Reactive Operational Support

- Service Requests
- Support Requests

3.1.3 Where Boomerang's services are integrated with third party software solutions, the scope of support does not extend to issues relating to or questions regarding the third party software.

3.2 **Pro-active Operational Support: Service Monitoring**

3.2.1 The external service endpoints (APIs) and user interface are monitored from different geographical locations that are used to test connectivity to all services.

3.2.2 Availability and performance of all hardware components, critical application processes and connectivity to suppliers is monitored. This includes but is not limited to hardware resources utilised (e.g. CPU, RAM and disk space), network traffic, application performance, message transit times, processing capacity, message queues (internal), carrier queues and delivery and response success rates.

3.2.3 Each component that is monitored will trigger a warning / critical state alarm based on breaching pre-defined metrics. These metrics are reviewed quarterly to ensure their accuracy, relevance and reliability.

3.3 **Pro-active Operational Support: Planned maintenance**

3.3.1 All planned outages are scheduled where possible to minimise customer inconvenience. A Notification is sent by e-mail to the nominated customer contacts, the Operational Support team and Account Manager within Boomerang along with all designated supplier contacts. The maximum notice period possible is provided and correspondence will contain the following information:

- Date and time of the outage
- The scope of the work to be carried out
- Expected timeframe for service interruption

3.3.2 At the end of a Planned Outage a further notification will be sent by e-mail and will contain the following information:

- Date and time the outage ceased
- Results of the work carried out, stating whether further work may be required

3.3.3 Planned maintenance is scheduled for both software and hardware updates and is categorised as follows:

- Software:
  - Functional enhancements
  - Bug fixes
  - Platform updates and maintenance
- Hardware:
  - Equipment upgrade / maintenance
  - Relocation of hardware
  - System re-boot

3.4 Reactive Support: Service Request

3.4.1 Case management

3.4.1.1 Service requests are raised and monitored through our Technical Support case management system. Such requests can be raised directly by the customer or by Boomerang's Technical Support team.

3.4.2 Customer originated requests

3.4.2.1 Any customer representative raising a ticket is required to provide their own name, the name of the organisation and a description of the request. The description should contain as much relevant information as possible regarding the support request that will help the Support team to identify the root cause of the issue. Confirmation of the service request, including a unique reference is sent to the e-mail address provided, with status updates issued as action is undertaken.

3.4.3 Boomerang Support team request

3.4.3.1 Where service requests are made verbally by a customer or internally by Boomerang to the Support team, a ticket is raised by the team using the method described above and confirmed to the nominated e-mail address also containing a unique reference.

3.4.4 Severity levels

3.4.4.1 All service requests are assigned a priority level ranging from one to three, where Priority 1 = Level 1 (High), Priority 2 = Level 2 (Medium) and Priority 3 = Level 3 (Low). Attributing the priority/severity of a request should be based on the definitions provided in the table below:

Support request type	Definition	Support contact	Escalation point
Level 1 – HIGH	The Service is down and inoperable. All work has stopped and the situation is causing a critical impact to the Customer's service. Examples: • A complete outage of critical service • A recurring temporary outage of a critical service • Inability to provision a critical service • Substantial loss of billing data • User Interface is not accessible • Communications not received by Boomerang's platform from the relevant Operator's network • Boomerang's platform unable to send messages to the relevant Operator's network • Customers are unable to connect to Boomerang's platform • Platform corrupts messages	Support team	Operations Director
Level 2 - MEDIUM	System is severely limited or degraded. The situation is causing a significant impact to certain portions of the Customer's service. The System is interrupted and recovered but has a high risk of reoccurrence) Examples:		

	• Servers connected to some of the operators have traffic disturbances, however not all operators affected • The performance of key functionality within the User Interface is impaired • Significant degradation of a critical service occurs • Results of critical services are materially different from those described in the product definition		
Level 3 - LOW	Problems or disturbances affecting a specific area of functionality, but not the whole System. Serious disturbance with impact given to end-user services. Examples: • Congestion in the System causing the System to reject some messages. Degraded performance or incorrect behaviour of a specific area of functionality, but not the whole System. • General consultation and minor problems that have a minor effect on the functionality of the System. Problem encountered; irritant; minimal impact to business operation • Faults that do not disturb traffic or cause any loss of service such as incorrect System printouts, documentation faults, and minor design imperfections. Operational questions. • A small System delay occurred, but no loss of data is experienced • A minor application error occurred • Documentation errors.		

3.5 **Severity Level 1 – High Priority Service Request (incl. unplanned outages)**

3.5.1 Where Boomerang identified or verifies a Level 1 severity support, the following course of action is undertaken:

3.5.1.1 A notification will be sent by e-mail to all customers, including all nominated Customer contacts, the Operational Support team and Account Manager within Boomerang, along with all designated supplier contacts, containing:

- A description of the fault
- Progress made towards a resolution
- Expected timeframe for service interruption (if known)

3.5.1.2 Progress updates are sent to all stakeholders.

3.5.1.3 A notification is sent to all stakeholders upon resumption of service.

3.5.1.4 A resolution notification detailing when the incident was resolved and the steps taken to resolve it. It will also include an overall summary of the incident details.

3.5.1.5 A root cause analysis report (RCA) will be produced after root cause investigation has been undertaken. This report will describe the root cause, any temporary solution implemented and the long term remedial action that will be taken to address the root cause.

3.6 **Reactive Support: Support Requests**

3.6.1 The table below lists different types of support requests. These requests should be directed to Boomerang from the appropriate customer contact points, highlighted in the "Request initiation" column. All requests should be made in writing, providing a detailed description of the issue. All verbal requests should be supported by a written request and submitted within 30 minutes.

Support request type	Definition	Request Initiation	Support contact	Escalation point
"How to" queries	Service integration or service administration queries/requests	Customer's User	Customer's Relationship Manager	Boomerang Support Team
Billing queries	1.Invoices/credits/statements 2. Payments 3. Billing information changes 4. Other	Financial Administrator	Boomerang Accounts Dept	Operations Director
Service change requests	Service change requests	Customer's Relationship Manager	Boomerang Account Manager	Operations Director

4 BOOMERANG SUPPORT PACKAGES – BOOMCARE

4.1 Basic Support

Basic Support is provided at Boomerang's discretion. Basic Support is provided by email only, between 9am and 6pm, Monday to Friday and offers no commitments around service availability, response times or fix times.

4.2 Standard & premium support

There are two further support packages offered by Boomerang – Boomcare Standard and Boomcare Premium. These are chargeable at the rate set out in the Customer's agreement with Boomerang:

The table below summarises the level of support applicable to each package:

Support element	Boomcare Standard Support*	Boomcare Premium Support*
Support availability		
Support times	9am-6pm, Mon-Fri (UK)	24x7
Support channel	Email, Chat	Email, Telephone, Chat
System availability		
Target availability	No commitments	99.50%
Issue response times		
Severity level 1	No commitments	1 hour
Severity level 2	No commitments	3 hours
Severity level 3	No commitments	12 hours
Service Restoration Target		
Severity level 1	No commitments	3 hours
Severity level 2	No commitments	12 hours
Severity level 3	No commitments	2 days

Scheduled Maintenance		
Notice period	5 days	5 days
Actions per month	No commitments	Maximum of 2

*Chargeable at contracted rate

5 TARGET SERVICE LEVELS

5.1 Applicability

5.1.1 The target Service Levels shown in the table below are applicable in respect of Boomcare Premium customers only. Boomerang shall use reasonable endeavours to achieve these target Service Levels but shall have no Liability for a failure to meet them, other than through the grant of Service Credits as provided in this section 5 below.

5.2 Measurements

5.2.1 System Availability is expressed as a percentage and calculated on a calendar month basis as follows:

$$\text{System Availability} = \frac{(\text{Available Time} - \text{Outages})}{\text{Available Time}} \times 100$$

5.2.2 Where:

5.2.2.1 "**Available Time**" means the total number of minutes in the month

5.2.2.2 "**Outages**" means any period measured in minutes during the monthly measuring period during which faults or problems with the System preclude processing of more than 25% of Communications sent by or to Customer by means of the Services and where the same is not attributable to Scheduled Maintenance, events of Force Majeure or acts or omissions of the Customer.

	Service Item	Service Subcomponents	Service Description	Target SLA*	Success Criteria
1	Service Availability	1. boomAlert 2. boomCast 3. boomMail	Boomerang Service Provision	99.50%*	No more than 223 minutes of accumulative recorded service disruption per calendar month.
2	Support	Boomerang response to customer	Time taken to acknowledge support request by email or telephone	1 Hour*	Time taken for Boomerang to contact the customer is within the target
3	Support	Fix Time Level 1	Critical Global Customer affecting issues.	3 hour total fix time.*	Customer support response should not exceed defined fix times based on support severity.

			Both Service & Administrative functions.		
4	Support	Fix Time Level 2	Customer specific issue, affecting a single customer. If more than two customers report issue, this should be defined as a Level 1 incident.	12 hours total fix time*	Customer support response should not exceed defined fix times based on support severity.
5	Support	Fix Time Level 3	Specific customer function that does not impact on core customer end to end services.	2 day total fix time. Notification to customer on completion*	Fix time should not exceed 2 days.

*SLAs above are applicable to customers taking Boomcare Premium support. Please note that unavailability of services caused by an issue relating to plug-ins or apps installed or used by third party applications are not covered by this SLA

5.3 **Service Credits – Boomcare Premium**

5.3.1 Boomcare Premium customers are entitled to Service Credits based on a failure to meet the monthly System Availability of 99.50%. Where Boomerang fails to meet this target in respect of any calendar month, subject to the paragraph below, Boomcare Premium customers will be entitled to claim a Service Credit of 1/12th of the annual value of the service subscription paid in respect of the Service affected (being one twelfth of the total annual amount paid). Service Credits are not provided against any other annual or monthly charges (including but not limited to message credits) nor in respect of any other metrics or performance measurements.

5.3.2 To receive a Service Credit, the Customer must submit a claim by email to Boomerang at operations@boomcomms.com, including sufficient detail to allow Boomerang to validate the claim, within 30 days following the end of the month in respect of which the Service Credit is claimed. Service Credits will be applied at the end of the Initial Term for the Service in respect of the Renewal Period and will not be exchanged for monetary compensation. The aggregate maximum Service Credits to be issued against all System Availability during any calendar year in respect of any Service shall not exceed 30% of the annual service subscription fees paid in respect of that Service.

5.3.3 A Customer is not entitled to Service Credits if it is in breach of its agreement with Boomerang, including without limitation where the Customer is not up-to-date with its payments when the relevant Outage occurred or Service Credits are claimed.

5.3.4 The Service Credits set out in this section represent Customer's sole remedy and Boomerang's sole Liability for Service and System failures, as provided in the agreement with Boomerang.