



O2 MOTION DATA AND INSIGHTS

G-Cloud 15: Terms & Conditions

Date: January 2026

Issue number: 1

Company Statement

All information contained in this proposal is subject to contract and, unless expressly stated to the contrary, to Virgin Media Business Limited's standard terms and conditions.

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Registered office: 500 Brook Drive, Reading, RG2 6UU, United Kingdom

Brand Statement

Buyers entering into a Call-Off Contract will be contracting with Virgin Media Business Limited ("The Supplier").

On the 1st August 2025 Virgin Media O2 Business and Daisy Group merged to create a new B2B telecoms powerhouse – O2 Daisy.

O2 Daisy is fully consolidated by Virgin Media O2 with a 70/30 ownership structure with Daisy Group. The corporate brands Virgin Media O2 Business, Virgin Media Business and O2 Business remain.

For contracting purposes, customers of these brands contract with Virgin Media Business Ltd. Depending on the services to be provided, affiliate companies may act as billing and collection agents, such as Telefonica UK.

GENERAL CONDITIONS FOR BUSINESS CUSTOMERS

1 DEFINITIONS AND INTERPRETATION

- 1.1 In the Master Agreement and each Call-off Contract, the following terms and expressions shall have the following meanings unless the context otherwise requires:

Term / Expression	Meaning
"Add-on Service"	means an optional add-on service that the Customer chooses to take which does not form part of the core services under the applicable Call-off Contract and which has no Minimum Period or has a Minimum Period or notice period of 30 days or less;
"Affiliate"	means any undertaking which is a subsidiary undertaking or parent undertaking (including the ultimate parent undertaking) of the relevant party and any company which is a subsidiary undertaking of such parent undertaking (the terms subsidiary undertaking and parent undertaking company having the meanings set out in Section 1162 of the Companies Act 2006);
"Ancillary Service"	means an extra service (excluding an Add-On Service) which is linked to the core services provided under the Call-off Contract, which the Customer uses, registers or signs up for and, where relevant, is described as an ancillary service in its terms and conditions;
"Applicable Laws"	in any jurisdiction in which the Services are to be performed any and all applicable laws, regulations and any applicable and binding industry standards, judgment or orders of a relevant court of law;
"Charges"	means the monies payable by the Customer to O2 in respect of: - each Service provided by O2 (whether or not the Service is used by the Customer); - where applicable, the O2 Supplied Equipment; and - any other products or services which O2 may agree to supply to the Customer from time to time under the Call-off Contract, as set out in the Commercial Schedule, the relevant Service Schedule, on the O2 Website or as otherwise agreed by the parties in writing from time to time (as amended from time to time in accordance with the terms of the Call-off Contract);
"Call-off Contract"	means a contract for the provision of Services entered into between the Customer and O2 in accordance with the process described in the Master Agreement and recorded in the following documents - these General Conditions; - the Commercial Schedule or other agreed document setting out the commercial terms on which the Services are to be supplied; - the applicable Terms; - the applicable Service Schedules; - any other document incorporated by reference in the Terms or Service Schedules; and - the applicable terms, conditions and charges set out on the O2 Website;
"Call-Off Commencement Date"	means the date upon which the Call-off Contract has been signed by the Customer;
"Commencement Date"	means the date upon which the Master Service Agreement has been signed by the Customer ;
"Commercial Schedule"	means the document or documents entitled "Commercial Schedule", which set out the Charges associated with O2's provision of a particular Service or O2 Supplied Equipment and other relevant commercial terms, all of which shall form part of the Call-off Contract;
"Confidential Information"	means proprietary information and/or any information obtained from the other in connection with the Master Agreement or a Call-Off Contract (including for the avoidance of doubt details of the Customer's employees) which is: - reasonably identified by either party as commercially sensitive or confidential; - obviously confidential in nature; or - given in circumstances giving rise to an obligation of confidence;
"Customer"	means the customer whose details and registered office are set out in the document entitled "Your Master Agreement";

Term / Expression	Meaning
"Customer Employee"	means any employee or other staff of the Customer, of any of the Customer's Affiliate subcontractors or agents, or of any other third party who is permitted by the Customer to use any Service;
"Customer Equipment"	means any hardware, software, cabling and related facilities provided by the Customer and used by the Customer in relation to a Service;
"Customer Request Form"	means a document which can be submitted electronically or manually by a Customer to O2 containing the detailed information necessary to fulfil a Customer's order for Services, in the form notified by O2 to the Customer from time to time;
"Data Protection Laws"	means all applicable laws and regulations relating to the processing of personal data and privacy including the Data Protection Act 2018 ("DPA"), the General Data Protection Regulation 2016/679 ("GDPR") and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated. The terms "Data Controller", "Data Processor", "Data Subjects", "Personal Data" and "Personal Data Breach" shall have the meaning given to them in the DPA or GDPR;
"Employee Liability Information"	shall have the meaning ascribed to it in the TUPE Regulations, as amended from time to time;
"End User Licensed Software"	means any software, the licence terms of which are governed by a separate agreement with the licensor of such software, typically by means of a "click wrap" or "shrink wrap" licence agreement;
"General Conditions"	means this document entitled "General Conditions for Business Customers";
"Incident"	means any reported event which is not part of the standard operation of a Service and which causes disruption to or a reduction in the quality of such Service;
"Internet"	means the global data network comprising interconnected networks using the TCP/IP protocol suite;
"Losses"	any and all actions, awards, costs, claims, damages, losses (excluding those losses liability for which are excluded in accordance with clause 17.2), demands, expenses, fines, judgments, penalties and proceedings (including any and all liabilities arising from the employment or engagement (or the termination thereof) of any individual as provided for in clause 28) and any other losses or liabilities;
"Master Agreement"	means the master agreement between the Customer and O2 which sets out the legal terms and conditions on which O2 will make Services available to the Customer from time to time comprising of the document entitled "Your Master Agreement" and these General Conditions;
"Minimum Term"	means the initial period of the Call-off Contract as specified in the Commercial Schedule or as otherwise agreed by the parties in writing from time to time;
"Network"	means the O2 network and the network of any Third Party used by O2 to supply the Services, as applicable;
"O2"	means Telefónica UK Limited as set out in the document entitled "Your Master Agreement";
"O2 Employee"	means any employee or other staff of O2 or an O2 Affiliate or any employee or other staff of any direct or indirect subcontractor or supplier of O2 or an O2 Affiliate who provides the Services on behalf of O2;
"O2 Representative"	means a representative of O2 and which includes a representative of O2's suppliers;
"O2 Supplied Equipment"	means equipment provided to the Customer by O2 under the Call-off Contract which may be used in the provision of the Services, as detailed in the Commercial Schedule, order form or other document agreed between the parties from time to time;
"O2 Website"	means www.o2.co.uk ;
"Rental Charges"	means the monthly non-usage dependent part of the Charges for the Services, as specified in the Commercial Schedule, and/or on the O2 Website (as amended from time to time in accordance with the terms of this Master Agreement or any Call-off Contract);
"Replacement Services"	means all or part of the Services or services substantially similar to all or part of the Services which are provided by an entity other than O2 following the termination of the Call-off Contract (or the relevant part of the Call-off Contract) or the termination of any or all of the Services;

Term / Expression	Meaning
"RPI Rate"	means the "RPI Percentage change over 12 months: monthly rate" announced by the Office for National Statistics in February at https://www.ons.gov.uk/ (such url as may be updated from time to time), or if such index ceases to be published, such index which supersedes or replaces it or the index which in O2's reasonable opinion most nearly corresponds with the same and which will be notified by O2 to its customers on the O2 Website;
"Service"	means the services provided by O2 as such services are described in the Terms, Service Schedules, Commercial Schedule as applicable or as otherwise agreed by the parties in writing from time to time, including but not limited to Ancillary Services;
"Service Commencement Date"	in respect of a Service or a particular instance of a Service means the date on which that particular Service or particular instance of a Service is first provided to the Customer, or as otherwise explicitly set out in the Call-off Contract;
"Services Provider"	means a provider of telecommunications services or other services similar to the Services, including O2 or an O2 Affiliate or any direct or indirect supplier of O2 or an O2 Affiliate;
"Service Schedule"	means any document entitled "Service Schedule" containing additional terms relating to a particular Service which schedule shall form part of the Call-off Contract;
"Service Transfer"	means the transfer of a Service (or any part of a Service) that had been provided pursuant to the Call-off Contract (as a result of termination of the Call-off Contract or otherwise);
"Site"	means (where applicable) a physical location at which any O2 Supplied Equipment shall be located and/or at or to which a Service shall be provided;
"Software"	means any software, excluding End User Licensed Software, supplied to the Customer by O2 under the Call-off Contract and includes all other software identified in the Call-off Contract as "Software";
"Successor Supplier"	means any entity (including the Customer where relevant) which provides the Replacement Services;
"Target Delivery Date"	in respect of a Service means the date for the commencement of the provision of the relevant Service as specified by O2;
"Termination Fee"	in respect of a Service, means the termination fee set out in the Commercial Schedule or otherwise agreed by the parties in writing;
"Terms"	means documents entitled "Terms" containing additional terms relating to particular Services or O2 Supplied Equipment which shall form part of the Call-off Contract;
"Third Party"	means a person, company or entity other than O2 or the Customer;
"Transferring Employee"	means any employee, consultant, agent or sub-contractor (or an employee or consultant thereof) engaged or employed by the Customer or any Third Party to provide a Service or services similar to a Service or any part of a Service;;
"TUPE Regulations"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006, (as amended, re-enacted or extended from time to time);
"User"	means Customer Employees, Customer Affiliates, subcontractors, agents and anyone else, who in each case is permitted by the Customer to use the Service; and
"Working Day"	means Monday to Friday (excluding UK bank and public holidays).

1.2 Unless otherwise stated, references to:

- a) clauses and sub-clauses refer, to clauses and sub-clauses of these General Conditions, the relevant Terms, the relevant Service Schedule or other schedule of the Master Agreement or a Call-off Contract (as applicable);
- b) schedules are to the schedules of the Master Agreement or a Call-off Contract (as applicable);
- c) and references to paragraphs are to the paragraphs of appendices to the General conditions, the relevant Terms, the relevant Service Schedules or other schedule of the Master Agreement or a Call-off Contract (as applicable).

- 1.3 In clauses 1.4 to 1.10 any reference to the Master Agreement or a Call-off Contract shall include a reference to each document making up the Master Agreement and such Call-off Contracts.
- 1.4 The headings in the Master Agreement and each Call-off Contract are for ease of reference only and shall not affect its construction.
- 1.5 References in the Master Agreement and each Call-off Contract to any statute or statutory instrument shall include any re-enactment, modifications or amendments thereto for the time being in force.
- 1.6 Unless the context otherwise requires, the singular shall include the plural and vice versa.
- 1.7 Any obligation (including an obligation to "procure" or "ensure") assumed by an obligor under the Master Agreement or a Call-off Contract takes effect as a primary obligation.
- 1.8 Any words in the Master Agreement or Call-off Contract following the terms "including", "include", "in particular", "for example" or any similar expression shall be construed as illustrative and shall not limit the generality of the related general words.
- 1.9 References in the Master Agreement or a Call-off Contract to a Service shall include any instance of such Service as applicable (for example, reference to a landline Service shall include both all landline Services provided to the Customer and/or each individual landline, as the context requires).
- 1.10 Where a term or acronym appears in capital letters and is not specifically defined in the Master Agreement or a Call-off Contract it shall have its industry standard meaning as would be reasonably understood by a customer or supplier of telecommunications or information technology services.

2 COMMENCEMENT AND TERM

- 2.1 Each Call-off Contract shall commence on the Call-Off Commencement Date and, subject to earlier termination in accordance with clause 12 or any other relevant term of the Call-off Contract, shall continue for the Minimum Term and thereafter until terminated in accordance with the relevant Call-off Contract.
- 2.2 In consideration of the Customer paying the Charges and fulfilling all of its commitments as set out in the Call-off Contract, O2 shall supply the Services and/or O2 Supplied Equipment as applicable in accordance with the terms of the Call-off Contract.
- 2.3 O2 shall commence supplying a Service on the relevant Service Commencement Date and shall supply those Services until terminated by either party in accordance with the provisions of the Call-off Contract.

3 O2 OBLIGATIONS

- 3.1 O2 will supply the Services:
 - a) with the reasonable skill and care of a competent telecommunications service provider;
 - b) using appropriately trained, qualified and experienced personnel; and
 - c) in accordance with Applicable Laws.
- 3.2 O2 will hold and continue to hold any licences, consents and/or notifications required under any Applicable Laws to provide the Services and/or O2 Supplied Equipment.
- 3.3 O2 does not guarantee that the Services will be continuously available and/or fault-free, but this will not affect any specific availability or service levels which may be agreed between the parties in respect of a particular Service as set out in the Commercial Schedule, a Service Schedule or as otherwise agreed by the parties in writing from time to time.

- 3.4** O2 shall use reasonable endeavours to provide the Services and/or O2 Supplied Equipment within any time periods and/or by any date indicated to the Customer, but all time periods and dates (including the Target Delivery Date) are estimates and except where explicitly stated O2 shall have no liability for any failure to meet any date or perform any of its obligations within the time period indicated.
- 3.5** O2 shall co-operate, and use commercially reasonable endeavours to procure that each O2 supplier co-operates, with the Customer and any Third Party specified in the Commercial Schedule, a Service Schedule or otherwise agreed by the parties in writing from time to time and engaged by the Customer to provide related services to the Customer, so as to integrate (where reasonably requested by the Customer) other services, technologies, products, materials or Customer Equipment supplied by the Customer or any Third Party with the relevant Services.
- 3.6** The co-operation referred to in clause 3.5 shall only apply where the need to integrate the Services is set out clearly in the Commercial Schedule, the Service Schedule or otherwise agreed by the parties in writing from time to time and the costs of such co-operation shall be charged by O2 and paid by the Customer. O2 will not be required to integrate or interface the Services with any of the Customer's other services, technologies, products, materials or Customer Equipment.
- 3.7** The Customer acknowledges that some of the Services enable access to the Internet and that use of the Internet is solely at the Customer's risk and subject to all Applicable Laws. O2 has no responsibility for any information, software, services, goods or other materials obtained by the Customer using the Internet.

4 THE CHARGES

- 4.1** Most Charges are set out in the Commercial Schedule. Where a Charge is not set out in the Commercial Schedule, the Charge shall be:
- a) as set out on the O2 Website at the time the O2 Supplied Equipment, Service or other agreed product or service was supplied; or
 - b) as otherwise notified to the Customer by O2 (including in a Service Schedule) from time to time.
- 4.2** The Charges are exclusive of value added tax and other customs duties or taxes which may arise from time to time in connection with the provision of the Services or O2 Supplied Equipment, and which will be charged at the prevailing rate.

5 INVOICING AND PAYMENT

- 5.1** Unless otherwise agreed with the Customer, O2 may issue to the Customer on a monthly basis in relation to Services and on delivery in relation to O2 Supplied Equipment one or more invoice(s) which shall set out the Charges due under each Call-off Contract. The Customer shall pay the Charges with the frequency set out in the Commercial Schedule or as otherwise agreed by the parties in writing from time to time.
- 5.2** If the parties agree that payments of the Charges to O2 are to be made by credit card and if payments of such Charges are not made on the due date, O2 is authorised to debit the Customer's nominated credit card company with all Charges due and payable to O2.
- 5.3** The Customer shall pay each invoice issued by O2 under a Call-off Contract (including any invoice relating to Termination Fees) within thirty (30) days of the date of invoice or such other payment terms as are specified in the Commercial Schedule or otherwise agreed by the parties in writing from time to time. The invoice shall be deemed paid once O2 receives such payment as cleared funds in its nominated bank account.

- 5.4 The Customer shall pay the Charges (including any Termination Fees) in full without any deduction or set off.
- 5.5 O2 may, without prejudice to any other rights it may have, set off any liability of the Customer to O2 against any liability of O2 to the Customer.

Late payment

- 5.6 Without prejudice to any other rights of O2 but subject to clause 5.7, in the event of the Customer failing to pay any sums due to O2 on time or at all, notwithstanding notification by O2 of the overdue debt to the Customer, O2 shall be entitled to:
- a) charge interest (both before and after any judgment) on amounts overdue from the Customer under the Call-off Contract from the due date until the payment is actually made at the rate of 4% per annum over the base rate of the Bank Of England for the time being during the relevant period; and
 - b) suspend the provision of the relevant Services with as much prior notice as O2 considers to be reasonably practicable, until such time as all payments due including all interest accrued has been paid and satisfied in full.
- 5.7 The provisions of clause 5.6 shall not apply to any sums disputed by the Customer if:
- a) the dispute is reasonable and bona fide; and
 - b) the Customer notifies O2 of the disputed sum within thirty (30) days of the date of the relevant invoice.

Separate invoicing arrangements

- 5.8 If O2 and the Customer agree in writing that O2 will issue individual invoices for the Services for all or some of the Customer's Users, the Customer will:
- a) ensure that each User pays O2 within 30 days of the invoice date either by direct debit or by continuous credit card authority (and updates O2 promptly if their direct debit or credit card details change); and
 - b) remain liable to O2 for all Charges whether or not invoiced to Users in accordance with clause 5.8 a). If Users do not pay their individual invoices within thirty (30) days of the invoice date, the Customer must pay them within seven (7) days thereafter.
- 5.9 If the Customer, in breach of clause 5.8 a) does not ensure that all Users pay by direct debit or by continuous credit card authority, O2 may charge the Customer for the additional cost of processing non-electronic payments from Users.

Credit security

- 5.10 Following any credit check required prior to O2's acceptance of the Customer's application for Services (and as described in clause 29), O2 may require from the Customer a deposit as security for payment of Charges. The Customer may request the return of any deposit paid at the expiry of each 12 month period after the deposit was taken but the decision to return any deposit prior to termination of a Call-off Contract will be at the discretion of O2.

6 CUSTOMER OBLIGATIONS

- 6.1 The Customer shall and shall procure that Users (or anyone having access to the Services and/or the O2 Supplied Equipment), shall:
- a) co-operate with O2 in all matters relating to the Services and/or the O2 Supplied Equipment;

- b) comply with any reasonable instructions from O2 or any O2 Representative and with any health and safety, security, use of Network, acceptable use and fair usage policies as may be implemented and/or amended from time to time relating to the use of the Services and/or the O2 Supplied Equipment;
- c) make available to O2 and O2 Representatives such access to staff of the Customer who are familiar with the Customer's systems and equipment and software as O2 may reasonably require in connection with the supply of the Services;
- d) not use the Services and/or the O2 Supplied Equipment in a manner which damages the reputation of O2 or O2's suppliers, is inconsistent with a reasonable customer's good faith use of the Services and/or the O2 Supplied Equipment, and/or adversely affects the provision of the Services and/or O2 Supplied Equipment to other customers;
- e) not use the Services and/or the O2 Supplied Equipment fraudulently, or in connection with a criminal offence;
- f) not use the Services and/or the O2 Supplied Equipment in a way that contravenes any Third Party's rights or any Applicable Laws, licence, code of practice, instructions or guidelines issued by a relevant regulatory authority;
- g) hold and will continue to hold any licences, consents and/or notifications required under any applicable legislation, regulation and/or administrative order to receive and use the Services and/or the O2 Supplied Equipment;
- h) use O2 Supplied Equipment for the purposes of receiving or using the Services in accordance with the Call-off Contract and for no other purpose;
- i) be responsible for the O2 Supplied Equipment when it is on the Site and will not move, add to, modify or in any way interfere with the O2 Supplied Equipment (including to not remove, tamper with and/or obliterate any words or labels on it), nor allow anyone else (other than someone authorised by O2) to do so;
- j) not have the O2 Supplied Equipment repaired or serviced except as authorised by O2;
- k) keep the O2 Supplied Equipment fully insured for risk of loss, theft, destruction, damage and to inform O2 if the O2 Supplied Equipment is lost, stolen or damaged;
- l) permit O2, O2 Representatives and/or O2's suppliers to inspect or test the O2 Supplied Equipment at all times on reasonable notice and, following the termination of the Services, to recover it;
- m) if requested by O2, return, or arrange for the return of, O2 Supplied Equipment to O2 or O2 Representatives strictly in line with O2's instructions;
- n) notify O2 of any methods of doing business which may affect the Customer's use of the Services and/or the O2 Supplied Equipment or the Customer's ability to comply with the terms of the Call-off Contract; and
- o) notify O2 immediately (and confirm in writing) on becoming aware that any person is making improper or illegal use of the Services.

6.2 Subject to clause 10, the Customer agrees that it is procuring the Services solely for its own use and that it will not re-sell or otherwise act as any form of distributor in respect of the Services.

6.3 The Customer shall not create or allow any charges, liens, pledges or other encumbrances to be created over the O2 Supplied Equipment.

- 6.4** The Customer shall provide O2 with any and all information and/or assistance that O2 may require in order to perform the Services and/or supply the O2 Supplied Equipment. The Customer shall ensure the information is complete and accurate. O2 shall not be responsible for any failure and/or delay to provide the Services or the O2 Supplied Equipment if such failure and/or delay is a result of the Customer's failure to provide O2 with the required information and/or assistance. The Customer shall reimburse O2 for any administrative charges that it incurs as a result of information that it receives in accordance with this clause 6.4 that is incomplete or inaccurate.
- 6.5** O2 does not guarantee that any Software supplied as part of the O2 Supplied Equipment will be uninterrupted or error free and O2 is not responsible for fixing any bugs, errors or omissions in the Software.
- 6.6** The Customer warrants to O2 that it will take all reasonable steps (including testing with up-to-date commercially available virus detection software) to ensure that any software used with or in connection with the Services and/or the O2 Supplied Equipment is not infected by viruses and/or logic bombs, worms, trojan horses and any other types of disruptive, destructive or nuisance programs. O2 shall not be responsible for any pre-existing viruses or any viruses introduced by the Customer to the O2 Supplied Equipment (including any related Software).

7 ORDERING SERVICES AND O2 SUPPLIED EQUIPMENT

- 7.1** O2 shall, within a reasonable period of its receipt of a request for Services or O2 Supplied Equipment, indicate to the Customer whether it wishes to provide the Services and/or O2 Supplied Equipment requested and, if O2 indicates that it does:
- a) where the Services and/or O2 Supplied Equipment are to be provided on the terms set out on the O2 Website, O2 may issue a quote or order documentation which incorporates the terms of the O2 Website applicable to the Service, any applicable Service Schedules and any alternative terms appearing on or referred to in any other communication or purchase order, (whether oral, in writing or by electronic means) issued by the Customer shall be ineffective unless expressly incorporated in the quote or order documentation issued by O2;
 - b) where the Services and/or O2 Supplied Equipment are to be provided other than on the terms set out on the O2 Website, the parties shall work together in good faith to produce and agree a Commercial Schedule and the associated terms of the Call-off Contract in respect of the services and/or equipment requested; and
 - c) where the Services and/or O2 Supplied Equipment are to be provided on the terms of an existing Call-off Contract, the parties shall agree an appropriate variation to such Call-off Contract to cover such services and/or equipment and any additional Customer obligations required for the Customer to use the Services and/or O2 Supplied Equipment in question.
- 7.2** O2 reserves the right to add to, substitute, or to discontinue any item of O2 Supplied Equipment at any time. O2 does not guarantee the continuing availability of any particular item of O2 Supplied Equipment.
- 7.3** O2's Representatives are not authorised to make any warranty or representations concerning the Services or O2 Supplied Equipment unless confirmed by O2 in writing. In ordering Services or O2 Supplied Equipment pursuant to the Master Agreement or under any Call-Off Contract the Customer acknowledges that it does not rely on any such representations which are not so confirmed.
- 7.4** Once accepted by O2, an order for Services and/or O2 Supplied Equipment may not be revoked by the Customer.

8 VARIATIONS

- 8.1 Subject to any specific procedures otherwise set out in the Call-off Contract, the Customer may request a change to the Master Agreement, the Call-off Contract and/or the Services by submitting a request in writing.
- 8.2 O2 shall supply to the Customer a written response confirming whether or not O2 would be prepared to accept the changes and setting out:
- a) any additional Charges that would result from the change (e.g. Termination Fees in the case of termination of an instance of a Service) and/or any changes to existing Charges;
 - b) any Customer dependencies relating to the change; and
 - c) the timescales for the delivery of the change which shall, unless otherwise stated in O2's written response run from the date on which the Customer notifies O2 that it wishes to proceed with the change.
- 8.3 The Customer shall confirm to O2 in writing within fourteen (14) days of the date that it receives O2's response whether or not it would like to proceed with the change and, if O2 considers that the Customer's request requires the execution of a formal variation to the Call-off Contract, the Customer shall execute such change control documentation or variation setting out any additional or alternative terms as O2 shall stipulate.
- 8.4 Until the Customer provides written confirmation that it wants to proceed or, if later executes the application documentation requested by O2, O2 will continue to implement, deliver and/or support the Services as detailed in the Call-off Contract and the Customer shall continue to meet its obligations under the Call-off Contract.
- 8.5 Subject to any specific procedures otherwise set out in the Call-off Contract, O2 reserves the right from time to time to vary: (i) how it provides the Services; (ii) the Charges; and/or (iii) any other provision of the Master Agreement or any Call-off Contract:
- a) by giving as much notice as is reasonably practicable where the variation arises due to changes imposed by Third Party manufacturers, Third Party suppliers, a regulatory body or as a result of a change in applicable law, regulation, guideline or code of conduct; and
 - b) in all other circumstances, by giving the Customer thirty (30) days' notice in writing of such variation, or in the case of any provisions or Charges set out on the O2 Website, by publishing the variations on the O2 Website at least thirty (30) days before such changes come into effect.
- 8.6 The Rental Charges will increase annually by the RPI Rate. If the RPI Rate is equal to or less than zero the Customer's Rental Charges will not be amended. The increase in Rental Charges will take effect in the Customer's April bill following the publishing of the RPI Rate.
- 8.7 Subject to clause 8.8 and clause 8.9, the Customer shall be entitled to terminate the Master Agreement or the Call-Off Contract without paying Termination Fees (subject to clause 8.13) by providing 30 days' notice in writing if:
- a) O2 increases the prices set out on the O2 Website and/or the Charges in respect of the Services pursuant to clause 8.5 other than in accordance with clause 8.6 or as otherwise permitted under the terms of the Master Agreement or the Call-Off Contract; or

- b) O2 varies the terms of this Master Agreement, the Call-Off Contract, the Services, the Network, the Software or the O2 Supplied Equipment (other than as permitted under the terms of the Agreement or the Call-off Contract) pursuant to this clause and O2 believes that such variation is not exclusively to the Customer's benefit,

provided that the Customer's notice is provided in accordance with the instructions set out in O2's notice of the changes to the Master Agreement or the Call-Off Contract and provided to O2 within 30 days of the date that the change is notified to the Customer. Where the Customer terminates the Master Agreement or the Call-Off Contract in accordance with this clause 8.7, the Master Agreement or the Call-Off Contract will terminate on the earlier of:

- c) 30 days after the Customer's notice is deemed delivered in accordance with this clause 8.7 and clause 26;
- d) the date on which the change comes into effect or, where this is not feasible due to the timing of the Customer's notice of termination, as soon as reasonably possible after that date; or
- e) a date agreed in writing by O2 and the Customer.

8.8 Subject to clause 8.9, where a change giving the Customer a right to terminate under clause 8.7 arises, the right to terminate shall apply only in respect of the Call-Off Contract(s) affected by the change and shall not apply in respect of the Master Agreement unless the Master Agreement is also affected by the change.

8.9 The right to terminate in clause 8.7 above shall not apply where:

- a) O2 makes any change to the Master Agreement, the Call-Off Contract, Charges, O2 Supplied Equipment, Network, Services or Software that O2 believes is exclusively to the Customer's benefit or where the change is made for any of the following reasons:
 - i) the change is purely administrative and has no negative effect on the Customer including but not limited to any change to O2's contact details, registered office or non-contractual processes, for example contacting O2 to speak to an account manager, raise faults or disputes or any other process change which O2 may make from time to time;
 - ii) there is a change in applicable law, regulations or the rules of a regulatory body, listing authority or governing body that applies to O2 and/or the Network, O2 Supplied Equipment, Services or Software that are provided by O2;
 - iii) O2 has a legal or regulatory obligation to pass on cost increases and/or changes to the Master Agreement, applicable Call-Off Contract, Network, O2 Supplied Equipment, Services or Software for example where the service charge for calling 084, 087, 09 and 118 numbers increases;
- b) the Master Agreement, the Call-Off Contract, Charges, O2 Supplied Equipment, Network, Services or Software change for the following reasons:
 - i) changes are made to the O2 Supplied Equipment, Network, Software or Services where the O2 Supplied Equipment, Network, Software or Services are variable, including but not limited to;
 - 1) changes to the features or functionality of the O2 Supplied Equipment, Network, Services or Software;

- 2) changes to operational or administrative elements of the Services including but not limited to changes to the hours during which the Customer can contact O2 and changes to or removal of individual communication channels through which the Customer can contact O2, changes to any portal, platform or similar tool that O2 uses or makes available for the Customer to use in communicating with O2 and managing the provision of the Services (including changes to any billing platform used by O2 from time to time) and any other changes in relation to the processes through which O2 delivers the Services;
 - 3) any changes to the Network which reflect the overall variability of the Network including but not limited to any routine maintenance updates and upgrades;
 - 4) the replacement of any O2 Supplied Equipment, Services or Software which is no longer supported by the manufacturer or which O2 otherwise determines to be end-of-life with equipment, services or software of an overall equivalent specification or standard;
 - 5) changes to the Services, Software or O2 Supplied Equipment where there is a minimum technical requirement for equipment, services or software which the Customer must maintain in order to make use of the Services (including but not limited to a requirement to have a 2G or 3G service where this is withdrawn) and the Services, Software or O2 Supplied Equipment are changed because the Customer no longer meets the minimum technical requirements specified by O2 from time to time and the Customer either does not implement any changes to the Customer's equipment, services or software required to meet the minimum technical requirement or, where such equipment, services or software are supplied by O2, where the Customer does not agree to accept new or updated equipment, services or software from O2 which would meet the minimum technical requirement;
- ii) changes to international call rates that are directly linked to increases in wholesale rates or technological changes notified to O2 by other providers, including but not limited to the withdrawal of 2G or 3G services. Any changes to Charges or the Services or O2 Supplied Equipment under this clause 8.9 b) ii) will be notified to the Customer and will not be made more frequently than once per month;
 - iii) changes to third party charges or costs which are passed on to us by a Third Party which are directly attributable to the Master Agreement, the Call-Off Contract, Charges, O2 Supplied Equipment, Network, Services or Software;
 - iv) where O2 has provided general product or service descriptions in relation to the O2 Supplied Equipment, Network, Services or Software such descriptions are indicative guidance only and O2 may substitute the O2 Supplied Equipment, Network, Services or Software for those of an overall equivalent standard even if the exact features and functionality may differ;
 - v) changes to Charges or other costs which are based on the cost of providing the Services, O2 Supplied Equipment, Software or Network to the Customer or carrying out the relevant task in relation to the Services, only to the extent that any change is directly attributable to a change in the cost to O2;
 - vi) where O2 believes that the change is necessary for technical or security reasons;
 - vii) where O2 has agreed to provide power or other utilities as part of the Services, and there is any increase to the price payable to a third party (excluding any Affiliate) for such power or other utilities;

provided that O2 will notify the Customer of any changes under this clause 8.9 b) in accordance with this clause 8 and clause 26. If O2 believes that a change under this clause 8.9 b) is likely to materially disadvantage the Customer, O2 will notify the Customer of their right to terminate this Master Agreement or the Call-Off Contract(s) in accordance with clause 8.7 and the Customer may terminate the Master Agreement or the Call-Off Contract (as the case may be) without paying Termination Fees, subject to clause 8.13.

- c) the increases in prices or Charges or the variation of the Master Agreement, the Call-off Contract, O2 Supplied Equipment, Network, Services or Software has been agreed by the Customer, including any increase under clause 8.6,

O2 may inform the Customer of any changes made for the reasons set out in this clause 8.9 in accordance with this clause 8 and clause 26. If the Customer decides to terminate the Master Agreement or the Call-Off Contract due to a change made for the reasons set out in this clause 8.9, the Customer may still be required to pay a Termination Fee.

8.10 Subject to clauses 8.8 and 8.9, if the change to the Master Agreement or the Call-Off Contract which is referred to in clause 8.7 of these General Conditions relates:

- a) only to an Add-On Service that the Customer has already signed up to, and the Customer decides to terminate the Master Agreement or the Call-Off Contract due to the change in the Add-On Service, the Customer may still be required to pay a Termination Fee for terminating the Services other than the Add-On Service early (as the Customer already has the right to end the Add-On Service at any time). O2 will confirm any such applicable Termination Fee to the Customer;
- b) only to a Ancillary Service that the Customer has not already signed up to, the Customer will not have the right to terminate the Master Agreement or the Call-Off Contract without paying a Termination Fee; or
- c) only to a Ancillary Service that the Customer has already signed up to, and the changes are not exclusively to the Customer's benefit, O2 will notify the Customer of this and inform the Customer of the right to terminate the affected Ancillary Service and the Master Agreement or applicable Call-Off Contract without paying a Termination Fee, subject to clause 8.13.

8.11 Where O2 enables the Customer to use services, software or equipment under the Master Agreement or the Call-Off Contract(s) that is supplied by a Third Party and is subject to that Third Party's terms and conditions, including but not limited to End User Licenced Software, O2 is not responsible for any changes made by that Third Party to the Third Party's services, equipment, software, charges or terms and conditions, or for notifying the Customer of those changes as such changes are outside the control of O2 and O2 may not be aware of them.

8.12 If the Customer has entered into other agreements with O2, the Customer may in certain circumstances be able to terminate those agreements where the Customer terminates this Agreement in accordance with clause 8.7. For the avoidance of doubt, changes to this Agreement will not give rise to a right to terminate any other agreement which is not linked to this Agreement and O2 will notify the Customer in accordance with the terms of the relevant agreement if the Customer has a right to terminate any other agreement because of a change made by O2 to this Agreement.

8.13 Termination of the Agreement in accordance with clause 8.7 will not affect the Customer's requirement to pay the Charges relating to the Master Agreement or the Call-off Contract (as the case may be) incurred prior to the date of termination, but, in this event, subject to clause 8.9 the Customer shall not be liable for any Termination Fees in respect of the Services. Where the Customer terminates the Master Agreement or the Call-off Contract (as the case may be) in accordance with clause 8.7, the Customer will be obliged to pay any outstanding or overdue charges and;

- a) where the agreement includes O2 Supplied Equipment, the charges in respect of the cost of that O2 Supplied Equipment; and
- b) where the Master Agreement or Call-off Contract includes any volume-, value- or time- based or other incentives which the Customer has received the benefit of prior to termination, including but not limited to any equipment fund or transformation fund, a payment equivalent to the proportion of the incentive that the Customer has had the benefit of relating to the period between termination of the Agreement and the end of the Minimum Period, or the proportion of the incentive which the Customer has had the benefit of prior to the date it should have vested in accordance with the applicable terms for that incentive, where such incentive has been partly or fully used by the Customer.

O2 shall confirm any such applicable Charges under this clause 8.13 to the Customer following receipt of notice to terminate in accordance with clause 8.7.

8.14 For the avoidance of doubt:

- a) where the Master Agreement, the Call-off Contract, O2 Supplied Equipment, Network, Services or Software is not provided in accordance with the agreed standards set out in the Master Agreement or the Call-off Contract this shall not be regarded as a change to the contractual terms of the Master Agreement, the Call-off Contract or a change to the Services, O2 Supplied Equipment, Network or Software but as a breach of the Master Agreement or the Call-off Contract by O2 (as the case may be), in which case the contractual remedies set out in the Agreement shall apply and the Customer shall have no right to terminate in accordance with clause 8.7; and
- b) if the Customer requests any change to the Master Agreement, the Call-off Contract, Charges, O2 Supplied Equipment, Network, Services or Software and O2 agrees to such change, the Customer will not have a right to end the Agreement under clause 8.7.

8.15 No other variations of the Master Agreement, the Call-off Contract and/or the Services shall be effective unless it is in writing, refers to the Master Agreement, the Call-off Contract and/or the Services (as applicable) and is signed by each party (or its authorised representative).

9 ANTI-BRIBERY AND CORRUPTION

- 9.1** In addition to and without prejudice to clauses 6.1 a) or 6.1 e), O2 and the Customer each agree and undertake to the other that in connection with the Call-off Contract and the transactions contemplated by the Master Agreement, they will each respectively comply with all Applicable Laws of the United Kingdom relating to anti-bribery and anti-money laundering.
- 9.2** In the event that O2 or the Customer (as applicable) (the "Enquirer") has any basis for a good faith belief that the other party may not be in compliance with the undertakings and/or requirements set out in clause 9.1, the Enquirer shall advise the other party in writing and the other party shall cooperate fully with any and all enquiries undertaken by or on behalf of the Enquirer in connection therewith, including by making available the other party's relevant personnel and supporting documents if reasonably deemed necessary by the Enquirer.

- 9.3 Any breach by a party of this clause 9 shall be deemed to be a material breach of the Call-off Contract not capable of remedy for the purposes of clause 12.3 a) or 12.4 a) as applicable.

10 USERS

- 10.1 O2 acknowledges that the Customer may permit its Users to use the Services and/or O2 Supplied Equipment supplied by O2 to the Customer under the Call-off Contract. However, no such User shall have any right to enforce the Customer's rights under the Call-off Contract against O2 directly, and the Customer shall procure that any claim in relation to the subject matter of the Master Agreement and/or any Call-off Contract in respect of any such User is brought solely by the Customer on behalf of any such User.
- 10.2 The Customer will procure that all Users are aware of and comply with the terms of the Master Agreement and the relevant Call-off Contract and any act or omission of any User in relation to the Master Agreement and/or the relevant Call-off Contract shall be treated as the act or omission of the Customer.
- 10.3 The Customer shall indemnify and hold harmless O2 against any Losses suffered or incurred by O2 arising from any claims made against O2 directly by a User of the Customer arising out of or in connection with their use of the Services and/or O2 Supplied Equipment under the Call-off Contract.
- 10.4 The limitations and exclusions of liability contained in the Call-off Contract shall apply to any claims brought by or on behalf of the Customer and/or Users, and the involvement of one or more of its Users shall not give rise to any increase in or multiplication of any cap placed upon O2's liability.
- 10.5 This clause 10 shall remain in full force and effect notwithstanding any termination of the Call-off Contract.

11 SUSPENSION

Planned Outages

- 11.1 O2 may, from time to time, upon reasonable notice where practicable, suspend the Services during any modification or maintenance of the Network and, unless specifically agreed with the Customer, shall have no liability in relation to such suspension.

Unplanned Outages

- 11.2 O2 may, from time to time and without notice or liability to the Customer, suspend the Services during any technical failure of the Network, because of an emergency or upon instruction by emergency services or any government or appropriate authority or for the Customer's or Users' own security.
- 11.3 O2 shall use reasonable endeavours to restore the Services suspended in accordance with clause 11.1 or 11.2 as soon as reasonably practicable.

Actions of the Customer

- 11.4 O2 may, without prejudice to its other rights under these General Conditions, suspend or disconnect the Services without notice in any of the following circumstances:
- a) if the Customer fails to comply with the terms of the Call-off Contract after being given written notice of its failure (including failure to pay any Charges due); or

- b) if the Customer allows anything to be done which in O2's reasonable opinion may have the effect of jeopardising the operation of the Services or Network if applicable, or if the Services are being used in a manner prejudicial to the interests of O2 and/or a supplier of O2.

11.5 If O2 has suspended the Services in accordance with clause 11.4, O2 shall restore the Services when the circumstance described in clause 11.4 is remedied.

Actions of O2's suppliers

11.6 O2 may, without prejudice to its other rights under these General Conditions, suspend or terminate a Service if an O2 supplier suspends, terminates or lets expire the provision of services to O2 which O2 requires to provide such Service and for which O2 is unable to find a replacement supplier, having used its reasonable endeavours. O2 will provide as much notice as is reasonably possible.

Actions by regulators

11.7 O2 may, where requested by or on behalf of a regulatory body (including because of fraud or misuse) or required to do so by law, suspend any Services provided under the Call-off Contract.

Consequences of suspension

11.8 The Customer shall remain liable for:

- a) all Charges levied in accordance with the Call-off Contract during any period of suspension; and
- b) where the Services are suspended or disconnected pursuant to the circumstances described in clause 11.4, all reasonable costs and expenses incurred by O2 in the implementation of such suspension or disconnection.

12 TERMINATION

Termination for convenience

12.1 The Customer may terminate any Call-off Contract (in whole or in relation to a particular Service) by:

- a) providing to O2 thirty (30) days' notice in writing; and
- b) paying O2 the applicable Termination Fees in respect of the Service or Services being terminated.

For the avoidance of doubt, Termination Fees may be payable in accordance with the Service Schedule, the Commercial Schedule or as otherwise agreed in writing by the parties from time to time if the Customer terminates an order for Services prior to the Service Commencement Date; prior to the expiry of any applicable Minimum Term or before other agreed metrics have been achieved.

12.2 Unless specified otherwise in a Service Schedule, the Commercial Schedule or agreed in writing by the parties and without prejudice to any of its other rights to terminate a Call-off Contract, O2 may terminate any Call-off Contract (in whole or in relation to a particular Service) by providing to the Customer thirty (30) days' notice and, in this event, the Customer shall not be liable for any Termination Fees.

Termination for cause

12.3 The Customer may terminate any Call-off Contract by providing to O2 thirty (30) days' notice in writing in the event that O2:

- a) has committed a material breach of the Call-off Contract that is incapable of remedy; or

- b) has committed a material breach of the Call-off Contract that is capable of remedy and O2 has failed to remedy that breach within thirty (30) days of the Customer supplying written notice specifying the breach and requiring its remedy.

12.4 O2 may terminate any Call-off Contract (in whole or in relation to a particular Service) by providing thirty (30) days' notice in writing:

- a) in the event that the Customer has committed a material breach of the Call-off Contract that is incapable of remedy;
- b) in the event that the Customer has committed a material breach of the Call-off Contract that is capable of remedy and the Customer has failed to remedy that breach within thirty (30) days of O2 supplying written notice specifying the breach and requiring its remedy; or
- c) if any of the events described in clauses 6.1 e), 6.1 f), 9 and/or 11.4 b) occurs.

Insolvency

12.5 A party may terminate any Call-off Contract immediately on notice in writing to the other party in the event that bankruptcy or insolvency proceedings are brought against the other party, or if an arrangement with creditors is made, or a receiver or administrator is appointed over any of the other party's assets, or the other party goes into liquidation.

Consequences of termination

12.6 The expiration or termination of any Call-off Contract shall not affect the Master Agreement as a whole or any other Call-off Contracts in place between the parties.

12.7 If any Call-off Contract is terminated and the Customer wishes to transfer to another service provider, O2 will provide reasonable assistance to the Customer in respect of the transfer of the relevant Services in accordance with standard telecommunications industry practice.

12.8 Termination or expiry of any Call-off Contract for whatever reason shall not affect:

- a) the rights and obligations of the parties which have accrued prior to such termination or expiry; or
- b) any provisions of the applicable Call-off Contract which are of a continuing nature and any other provisions of the Call-off Contract necessary for their interpretation or enforcement.

12.9 On termination or expiry of any Call-off Contract (in whole or in relation to a particular Service):

- a) any sums properly due from one party to the other will become immediately due and payable (including Charges for the Service(s) up to the date of termination, Termination Fees relating to the Service(s) and/or Charges for any costs incurred by O2 in relation to O2 Supplied Equipment or Services ordered by the Customer but yet to be supplied by O2);
- b) the Customer shall cease using the Service(s); and
- c) each party will, on request, promptly return to the other all Confidential Information and other property belonging to the other relating to the Service(s) which is in its custody or control or will destroy such Confidential Information and certify such destruction to the other party.

13 EQUIPMENT

13.1 Certain elements of the Services are dependent on the Customer using the O2 Supplied Equipment or having suitable Customer Equipment available and in the event that the Customer does not use the correct O2 Supplied Equipment or is unable to provide the applicable Customer Equipment, then:

- a) the Services may not function correctly;
- b) O2 may choose not to provide the Customer with the relevant Services; and
- c) O2 shall have no liability for the Customer's inability to receive those Services and the Customer remains liable for the relevant Charges.

13.2 The Customer shall ensure that any Customer Equipment:

- a) is technically compatible with the Network and the relevant Service including conforming to any interface specifications and/or routing protocols specified by or on behalf of O2;
- b) does not harm the Network or equipment belonging to any Third Party;
- c) is connected to the Network and the relevant Service strictly in accordance with the instructions of O2; and
- d) is used by the Customer in compliance with any Applicable Laws and with any instructions, safety and security procedures, licences and standards.

13.3 If the Customer Equipment does not meet the requirements set out in clause 13.2, the Customer must immediately disconnect the Customer Equipment from the Network, the O2 Supplied Equipment and the Services.

13.4 O2 may disconnect the Customer Equipment, at the Customer's expense (providing as much prior notice as reasonably possible to the Customer) in the case of emergency or where the disconnection is required by Applicable Laws.

13.5 If the Customer asks O2 to test the Customer Equipment to make sure that it complies with the requirements set out in clause 13.2, the Customer must pay O2 the applicable Charges set out in the Commercial Schedule, on the O2 Website or otherwise agreed by the parties in writing from time to time.

14 O2 SUPPLIERS

14.1 The Customer acknowledges and agrees that O2 may use suppliers to supply the Services, the O2 Supplied Equipment and/or to carry out O2's obligations under a Call-off Contract. The Customer will give all such reasonable assistance and access to such suppliers as if they were O2 Employees.

15 INTELLECTUAL PROPERTY

15.1 All intellectual property rights in the Software, O2 Supplied Equipment, associated documents and all parts thereof will be and remain vested in and be the absolute property of the owner of the intellectual property rights in the Software, O2 Supplied Equipment or associated documents as appropriate, which owner shall be entitled to enforce any of the terms of the Call-off Contract relating to the Customer's use of that Software, O2 Supplied Equipment, associated documents and all parts thereof, directly against the Customer.

15.2 Unless otherwise specified in Call-off Contract, all intellectual property rights developed in the provision of any Service will vest in O2 or its licensors. O2 may use know-how acquired, principles learned or developed or experience gained during the performance of any Service, to perform work for other customers.

- 15.3 All information or materials exchanged between O2 and the Customer in connection with a Call-off Contract, together with the copyright therein, will remain the property of O2, O2's suppliers or the Customer as applicable and will be returned to the owning party on termination of the Call-off Contract, if requested by such party.
- 15.4 O2 grants to the Customer a non-exclusive, non-transferable licence to use, in object code form, any Software and the O2 Supplied Equipment provided by O2 or its suppliers solely in the United Kingdom in connection with the proper use of the Services. The Customer undertakes not to copy, alter, adapt, translate, software develop, decompile, license, sub-license, reverse engineer or resell any Software (or any part of the Software) or permit the whole or any part of the Software to be incorporated into any other computer programs, unless expressly permitted to do so by O2 or by Applicable Laws. This licence will terminate on the termination of the Call-off Contract (or any relevant part of the Call-off Contract).
- 15.5 The Customer shall accept and comply with all licence terms required from time to time by any Third Party provider of any Software or materials as agreed between the relevant Third Party and O2 and notified or otherwise provided to the Customer by O2.
- 15.6 O2 grants to the Customer a non-exclusive, non-transferable royalty free licence for the term of the Call-off Contract (in whole or in relation to a particular Service) to use any information or materials provided by O2 to the Customer under the Call-off Contract to the extent necessary for the Customer to receive the benefit of the Service. The Customer must not copy, reproduce, distribute, alter, adapt, translate, develop, decompile, license, sub-license, reverse engineer or resell any such information or materials (or any part thereof), unless expressly permitted to do so by O2 or Applicable Laws.
- 15.7 In the event that the Customer is subject to a claim by a Third Party in respect of any alleged infringement of any trademark, patent, registered design or copyright arising from its normal use or possession of the O2 Supplied Equipment, Software, information or materials provided by O2 then O2 will indemnify the Customer in relation to sums awarded or paid in settlement for such claim provided that the Customer promptly notifies O2 of such claim, makes no admission in respect of such claim, the Customer seeks to mitigate the loss where it can do so without unreasonable inconvenience or cost, allows O2 or its licensor to conduct all negotiations and proceedings (providing O2 or its licensor with all reasonable assistance) and allows O2 at O2's own discretion and expense to modify or replace the O2 Supplied Equipment, Software, information or materials so as to avoid any continuing infringement. This indemnity does not apply to any such infringements caused by the Customer's own breach of the terms of the Call-off Contract or the operation or use of the O2 Supplied Equipment, Software, information or materials in conjunction with other equipment and software or Services not supplied by O2 pursuant to the Call-off Contract in which event the Customer shall indemnify O2 in respect of any Losses arising from any such infringement by the Customer.
- 15.8 The Customer will not be entitled to and agrees not to:
- a) use in the course of trade or otherwise in relation to any goods or services of the Customer any registered or unregistered trademark, logotype or abbreviation of the name of O2 (or any of its suppliers) or any part thereof so that any person might reasonably import a connection between those goods or services and O2 (or any of its suppliers) or any part thereof;
 - b) register or attempt to register as a trade mark anything referred to in clause 15.8 a); and/or
 - c) authorise any Third Party to do anything referred to in clause 15.8 a).
- 15.9 The Customer further agrees not to infringe any intellectual property rights belonging to any Third Party in respect of any O2 Supplied Equipment.

End User Licensed Software

- 15.10 The Customer recognises that the Services may be dependent upon End-User Licensed Software (e.g. click-through licences) and if the Customer does not accept the licence terms relating to any End-User Licensed Software, O2 shall have no liability for any failure to provide or the Customer's inability to receive the Services where the Services depend on the use of such End-User Licensed Software.
- 15.11 Where the Customer accepts the terms of a licence in respect of any End-User Licensed Software, then those licence terms shall take precedence over any terms within the Call-off Contract relating to End-User Licensed Software and shall exclusively comprise the Customer's sole rights and remedies in respect of such End-User Licensed Software.

16 CONFIDENTIALITY

- 16.1 Either party receiving Confidential Information (the "Recipient") from the other (the "Disclosing Party") shall not, without the Disclosing Party's prior written consent, use that Confidential Information for any purpose other than for the purposes of fulfilling a party's obligations under the Call-off Contract, or disclose such Confidential Information to any person other than O2 Employees and Customer Employees as required officers and authorised subcontractors and suppliers who have a need to know that information ("Authorised Personnel").
- 16.2 Clause 16.1 shall not prohibit use or disclosure of Confidential Information by either party to the extent:
- a) the Confidential Information is published by or on behalf of the Disclosing Party or becomes generally known to the public otherwise than as a result of a breach of the Call-off Contract or any other obligation of confidentiality;
 - b) such Confidential Information was lawfully known to the Recipient prior to the time of disclosure by the Disclosing Party and is not subject to any obligations of confidentiality;
 - c) the Confidential Information was lawfully disclosed to the Recipient by a Third Party that was not itself under any obligations of confidentiality;
 - d) the Confidential Information is replicated or developed independently by or on behalf of the Recipient without access to or knowledge of the Confidential Information;
 - e) the disclosure is made to the professional advisers of a party provided that such professional advisers are made expressly aware of the confidential nature of the Confidential Information;
 - f) the disclosure of Confidential Information is required for the purposes of any judicial proceedings arising out of a breach of the Call-off Contract or any other agreement entered into under or pursuant to the Call-off Contract; or
 - g) the Confidential Information is required to be disclosed by any Applicable Laws, by any governmental or regulatory body, or by or in connection with the rules of any stock exchange on which the shares of either party or its holding company are listed (including where disclosure is required as part of any actual or potential offering, placing and/or sale of securities of either party or its holding company),
- provided however that prior to the disclosure or use of any Confidential Information in the circumstances described in clauses 16.2 f) or 16.2 g), the party concerned shall, where not prevented by Applicable Laws, consult with the other party about the nature and extent of the required use or disclosure insofar as is reasonably practicable.
- 16.3 Upon termination of the Master Agreement and/or any Call-off Contract, for whatever cause, the Recipient will:

- a) cease to use the Confidential Information given to them by the Disclosing Party for any purpose;
- b) return to the Disclosing Party or destroy all documents and all other materials containing or reflecting any Confidential Information, together with any copies, which are in the Recipient's possession or control or in the possession or control of any of the Recipient's Authorised Personnel and which are in a form capable of delivery and destruction; and
- c) expunge all Confidential Information from any computer, word processor or similar device into which it was programmed by the Recipient or any of the Recipient's Authorised Personnel,

provided, however, that the Recipient will be permitted to retain any computer records and files containing any Confidential Information which have been created pursuant to its automatic archiving and back-up procedures ("Information Archives").

- 16.4 The Recipient acknowledges that neither the return nor the destruction of any Confidential Information in accordance with clause 16.3 b) nor the expunging of any Confidential Information in accordance with clause 16.3 c) will release the Recipient from its obligations under the Call-off Contract. Any Confidential Information retained on a Recipient's Information Archives shall be kept strictly confidential and shall not be used for any purpose, other than as required by Applicable Laws.

17 LIMITATION OF LIABILITY

- 17.1 This clause 17 sets out each party's entire liability (including any liability for the acts and omissions of each party's employees, agents or sub-contractors) to the other party in tort, contract or otherwise, arising out of or in connection with the performance or contemplated performance or non-performance of the Master Agreement and/or any Call-off Contract.
- 17.2 Subject to clauses 17.4 and 17.5, neither party shall be liable in respect of any matter arising out of or in connection with the Master Agreement and/or any Call-off Contract in contract or tort (including negligence) or otherwise for any loss (whether direct or indirect) of profit, business, revenue, anticipated savings, goodwill, business interruption, from wasted expenditure or any loss or corruption of data, or for any indirect or consequential loss or damage whatsoever.
- 17.3 Subject to clauses 17.2, 17.4 and 17.5, O2's aggregate liability of any sort resulting from breach of contract or negligence, under any indemnity or otherwise arising in connection with the Master Agreement and/or any Call-off Contract (whether to the Customer, any Customer Affiliate, Users or otherwise) shall in respect of all Call-off Contracts entered into pursuant to the Master Agreement, be limited in respect of all claims arising in a Year ("Relevant Year") to the greater of:
- a) the sum of £500,000; or
 - b) an amount equal to the Annual Master Agreement Value,

where the "Annual Master Agreement Value" means the total Charges paid or payable by the Customer under all Call-off Contracts in the Year prior to the Relevant Year (or where a claim arises during the first Year of the Master Agreement, the Charges paid or payable up to the date on which the Customer's right to take action in respect of the claim arose and subject always to O2's aggregate liability for claims in the first Year being no greater than the total Charges paid or payable by the Customer in the first Year for all Call-off Contracts entered under the Master Agreement during such first Year); and "Year" means the first, and each subsequent, consecutive period of 12 months of the Master Agreement commencing on the Commencement Date.

- 17.4 Nothing in the Master Agreement and/or any Call-off Contract shall exclude or restrict the liability of either party for:

- a) death or personal injury resulting from that party's negligence;
- b) claims in respect of the Customer's liability under clause 10.3;
- c) breach of any implied term as to title or quiet enjoyment arising out of section 12 of the Sale of Goods Act 1979;
- d) fraud or fraudulent misrepresentation; or
- e) any liability which cannot be excluded or restricted by law.

17.5 Nothing in this clause 17 shall apply to the payment of the Charges.

17.6 Subject to clause 17.4 e), the express terms of the Master Agreement and/or any Call-off Contract are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

17.7 The limited warranty, exclusive remedies and limited liability set forth above are fundamental elements of the basis of the Master Agreement and/or any Call-off Contract between O2 and the Customer. O2 would not be able to provide the Services and/or the O2 Supplied Equipment on an economic basis without such limitations.

Liability for third parties

17.8 O2 shall not be liable for the acts or omissions of other providers of telecommunication services unless such other providers have been specifically engaged by O2 as subcontractors or assignees in respect of the performance of O2's obligations under the applicable Call-off Contract.

18 ASSIGNMENT

- 18.1 The Customer shall not assign or transfer the Master Agreement and/or any Call-off Contract to any Third Party, provided that the Customer may assign or transfer the Master Agreement and/or any Call-off Contract to any of its Affiliates with the prior written consent of O2 (such consent not to be unreasonably withheld or delayed).
- 18.2 O2 may assign or transfer the Master Agreement and/or any Call-off Contract to any of its Affiliates and may subcontract the performance of all or part of the same, provided that O2 shall remain liable for the acts and omissions of its subcontractors.

19 ENTIRE AGREEMENT

- 19.1 The Master Agreement and each Call-off Contract entered pursuant to the Master Agreement constitutes the entire agreement between the parties and supersedes all prior negotiations, representations, proposals, understandings and agreements whether written or oral relating to their subject matter.
- 19.2 Each party acknowledges and agrees that in entering into the Master Agreement and each Call-off Contract, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to the Master Agreement and/or applicable Call-off Contract or not) other than as expressly set out in the Master Agreement and/or applicable Call-off Contract. Nothing in this clause 19 shall, however, operate to limit or exclude any liability for fraudulent misrepresentation.

- 19.3 Any drawings, descriptions, advertising or service charters contained on the O2 Website or referred to in any of the above documents are for illustration purposes only. They shall not form part of any Call-off Contract or have any contractual force.

20 INVALIDITY

- 20.1 If any of the provisions of the Master Agreement and/or any Call-off Contract become invalid, illegal or unenforceable, the validity or enforceability of the remaining provisions shall not in any way be affected or impaired. In such circumstances, the parties shall negotiate in good faith in order to agree the terms of a mutual satisfactory provision, achieving as nearly as possible the same commercial effect, to be substituted for the provision which is found to be invalid, illegal or unenforceable.

21 WAIVER

- 21.1 The failure or delay by either party to the Master Agreement and/or any Call-off Contract to exercise or enforce any right, power or remedy under the Master Agreement and/or any Call-off Contract shall not be deemed to operate as a waiver of any such right, power or remedy; nor shall any single or partial exercise by any party operate so as to bar the exercise or enforcement thereof or of any right, power or remedy on any later occasion.

22 DATA PROTECTION

- 22.1 The parties operate in accordance with Data Protection Laws. The Customer and O2, who shall be Data Controllers, agree to fully comply with the provisions of or standards required by Data Protection Laws. O2 shall also act as a Data Processor for the Customer when acting upon the Customer's instructions to connect Users to the Service.
- 22.2 The Customer agrees that its details or those of its Users may be used and disclosed by O2 for the purposes of the Master Agreement and/or any Call-off Contract and for marketing purposes including informing the Customer and its Users from time to time about other Services or associated technologies. The Customer will ensure that any disclosure of Users' Personal Data by the Customer to O2 is compliant with Data Protection Laws and that Users have been notified of O2's Privacy Policy at o2.co.uk/termsandconditions/privacy-policy. If a User does not want its details to be used for direct marketing purposes, the Customer should contact its designated O2 account manager or the O2 Data Controller at Telefónica UK Limited, 500 Brook Drive, Reading, RG2 6UU.
- 22.3 To the extent that O2 is required as part of the Services to process Personal Data as a Data Processor only, O2 shall:
- a) process the Personal Data only on behalf of the Customer (or, if so directed by the Customer, Customer Affiliates), for the purposes of performing the Call-off Contract and in accordance with instructions contained in the Call-off Contract or the lawful instructions received from the Customer from time to time. O2 shall notify the Customer in the event that it becomes aware of Applicable Laws which prevent O2 from complying with the Customer's lawful instructions;
 - b) at all times comply with the data security related requirements of Data Protection Laws and shall (i) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure; and (ii) take reasonable steps to ensure the reliability of personnel, suppliers and subcontractors who may process Personal Data and ensure that all such personnel are bound by a duty of confidence to maintain the confidentiality of the Personal Data;

- c) at the Customer's expense, provide reasonable assistance with the Customer's compliance with any exercise by Data Subjects of their rights under Data Protection Laws;
- d) put in place a process whereby the Customer will be provided with access to a list of sub-processors processing Personal Data in relation to the Customer. In the event that the Customer objects to the use of a sub-processor the Customer shall be entitled to terminate the Call-off Contract in accordance with clause 12.1. In relation to such sub-processors O2 shall ensure that any such processing is carried out in accordance with the requirements of Data Protection Laws including ensuring that a contract is in place providing:
 - i) sufficient guarantees to implement appropriate technical and organisational measures in such a manner that the processing will meet the requirements of Data Protection Laws;
 - ii) prohibiting the sub processor from sharing any Personal Data with any third party without the prior authorisation of O2 or from using the Personal Data for any purpose other than as authorised by O2; and
 - iii) obligations which are no less onerous than those placed on O2 under the terms of this clause 22.3;
- e) in the event that O2 becomes aware of a Personal Data Breach, notify the Customer of the Personal Data Breach without undue delay;
- f) provide the Customer with reasonable assistance with the Customer's obligations under Data Protection Laws to notify data protection authorities and / or affected Data Subjects in the event of a Personal Data Breach;
- g) at the Customer's request and expense, provide the Customer with such information as the Customer may reasonably request to enable the Customer to demonstrate compliance with its obligations under Data Protection Laws, to the extent that O2 is able to provide such information. Such information will include reasonable evidence of the results of any applicable third party audit commissioned by O2 to verify its information security controls. The Customer shall comply with any reasonable security instructions, confidentiality requirements and policies notified to it by O2 in connection with the review referred to in this clause 22.3 g); and
- h) on termination or expiry of the Master Agreement and/or any Call-off Contract cease processing the Personal Data and delete such Personal Data from its systems (subject to any legal obligation that requires such Personal Data to be retained).

22.4 Subject to clause 22.3 d) O2 may transfer Personal Data in connection with the provision of the Services, including to any subcontractor, and such transfer may be outside the European Economic Area. In such circumstances O2 will comply with its obligations under Data Protection Laws by:

- a) taking reasonable steps to ensure the reliability of such subcontractors and prior to any such transfer will enter into a written agreement with such subcontractor containing contractual provisions which ensure an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of the Personal Data; and
- b) complying with the requirement in Data Protection Laws to ensure an adequate level of protection to any Personal Data that is transferred.

- 22.5** The Customer acknowledges that when acting as a Data Processor, O2 is reliant on the Customer for direction as to the extent O2 is entitled to use and process the Personal Data in connection with the Services. Consequently, O2 shall be entitled to relief from liability in circumstances where a Data Subject makes a claim or complaint with regards to O2's actions to the extent that such actions result from instructions received from the Customer or any breach of this clause 22 by the Customer.
- 22.6** The Customer further acknowledges and agrees that:
- a) O2 may use and share the Customer's details (including those of its Users) with O2's suppliers for the purposes of meeting O2's obligations under a Call-off Contract. The Customer acknowledges and agrees that O2's suppliers may contact the Customer directly; and
 - b) O2 and/or a supplier of O2 may monitor and record calls or other communications including in relation to O2's customer services.

23 MATTERS BEYOND THE PARTIES' REASONABLE CONTROL

- 23.1** Neither party shall be deemed in default or liable to the other party for any matter whatsoever for any delays in performance or from failure to perform or comply with the terms of the Master Agreement and/or any Call-off Contract due to any cause beyond that party's reasonable control including, without limitation, acts of God, acts of Government or other competent regulatory authority, telecommunications network operators, war or national emergency, riots, civil commotion, fire, explosion, flood, lightning, extremely severe weather, epidemic, lock-outs, strikes and other industrial disputes (in each case, whether or not relating to that party's workforce).
- 23.2** The Customer agrees that O2 shall have no liability for improper, incorrect or unauthorised use of the Services or O2 Supplied Equipment by the Customer or any Third Party.

24 EXPORT CONTROL

- 24.1** In the event that the Customer proposes to export any O2 Supplied Equipment or other equipment supplied by O2 pursuant to a Call-off Contract, the Customer agrees to comply with any applicable export or re-export laws, regulations, prohibitions or embargoes of any country, including obtaining written authority from any relevant licensing authority where necessary.
- 24.2** The Customer agrees that in entering into each Call-off Contract under which it procures O2 Supplied Equipment it accepts the terms of the following end-user undertaking: The Customer certifies that it is or will be the end-user of the O2 Supplied Equipment and further certifies that it shall use the O2 Supplied Equipment only for the purposes of allowing its employees to send, receive, store and process data and voice services in order to perform their everyday contractual duties; that the O2 Supplied Equipment will not be used for any purpose connected with explosives, chemical, biological or nuclear weapons, or missiles capable of delivering such weapons; that the O2 Supplied Equipment will not be re-exported or otherwise re-sold or transferred if it is known or suspected that they are intended or likely to be used for such purposes; and that the O2 Supplied Equipment, or any replica of it, will not be used in any nuclear explosive activity or un-safeguarded nuclear fuel cycle activity.

25 RELATIONSHIP OF THE PARTIES

- 25.1** Nothing in the Master Agreement and/or any Call-off Contract shall create, or be deemed to create; a partnership or joint venture between the parties and nothing in the Master Agreement and/or any Call-off Contract shall be construed to appoint one party as the distributor, dealer or agent of the other.

26 NOTICES

- 26.1** Any notice required or permitted under the Master Agreement and/or a Call-off Contract shall be given in writing by post (with an electronic copy by email) to the applicable contact details specified in the document entitled "Your Master Agreement" or to such other contact details as are otherwise notified by the recipient from time to time.
- 26.2** Any notice given in accordance with clause 26.1 will be deemed to have been given or made: when delivered personally; or, if properly addressed and posted by first class mail in the United Kingdom within two (2) Working Days of posting; or, where a copy is sent by e-mail, at the time of transmission provided the sender can provide proof the notice was properly addressed.
- 26.3** Any other communications required or permitted under the Master Agreement and/or a Call-off Contract shall be given in writing by post or any electronic means which is agreed by O2 from time to time.

27 NO THIRD PARTY RIGHTS

- 27.1** Except as otherwise explicitly set out in the Master Agreement and/or any Call-off Contract (including clauses 15.1 and 28), a person who is not a party to the Master Agreement or Call-off Contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Master Agreement or Call-off Contract and the consent of no such person will be required to rescind, amend or terminate the Master Agreement and/or any Call-off Contract.
- 27.2** For the avoidance of doubt, neither the Customer's Affiliates nor Users shall have any rights to enforce any term of the Master Agreement and/or any Call-off Contract and their consent will not be required to rescind, amend or terminate the Master Agreement and/or any Call-off Contract.

28 TUPE

- 28.1** The Customer warrants that it has taken all reasonable steps to verify and, following such investigation, has no grounds to believe that any Transferring Employee's employment shall transfer from the Customer or any Third Party to a Services Provider pursuant to the TUPE Regulations as a result of a Service Transfer, however and whenever such Service Transfer takes effect.
- 28.2** If, notwithstanding the warranties given by the Customer in clause 28.1, as a result of a Service Transfer, any Transferring Employee claims or it is determined that his contract of employment or any liability regarding his employment has been transferred from the Customer or any Third Party to a Services Provider pursuant to the TUPE Regulations or otherwise then:
- a) the Services Provider may terminate any such contract forthwith; and
 - b) the Customer shall indemnify and hold harmless the Services Provider against any Losses arising out of such termination and against sums payable to or on behalf of such employee in respect of his employment whether arising before or after the transfer of his employment (or alleged transfer of employment) to the Services Provider (including for the avoidance of doubt any liability arising from a failure to comply with any information or consultation requirements under the TUPE Regulations).
- 28.3** The parties intend that no O2 Employee's employment shall transfer from a Services Provider to the Successor Supplier pursuant to the TUPE Regulations as a result of the commencement of the provision of the Replacement Services by a Successor Supplier, however and whenever such commencement takes effect.

- 28.4** If, notwithstanding the intention of the parties stated in clause 28.3, as a result of the commencement of the provision of the Replacement Services by the Successor Supplier, any O2 Employee claims or it is determined that his contract of employment or any liability regarding his employment has been transferred from a Services Provider to the Successor Supplier pursuant to the TUPE Regulations or otherwise then:
- a) the Successor Supplier may terminate any such contract forthwith; and
 - b) O2 shall indemnify and hold harmless the Customer against any Losses incurred or suffered by the Successor Supplier arising out of such termination and against sums payable to or on behalf of such employee in respect of his employment whether arising before or after the transfer of his employment (or alleged transfer of employment) to the Successor Supplier (including for the avoidance of doubt any liability arising from a failure to comply with any information or consultation requirements under the TUPE Regulations).
- 28.5** The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this clause 28 to the extent necessary to ensure that:
- a) any Services Provider shall have the right to enforce the obligations owed to, and indemnities given to, O2 by the Customer under this clause 28; and
 - b) any Successor Supplier shall have the right to enforce the obligations owed to, and indemnities given to, the Customer by O2 under this clause 28,
- in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

29 CREDIT CHECKS AND FRAUD PREVENTION

- 29.1** O2's acceptance of Customer's application for Services and the ongoing provision of Services to the Customer, may be subject to O2 carrying out satisfactory due diligence relating to the Customer's credit history, verifying identities to prevent and detect crime, money laundering or fraudulent activity
- 29.2** O2 will send information on the Customer's applications, O2 account and how the Customer manages its account to credit reference agencies ("CRAs") and, where relevant, to fraud prevention agencies ("FPAs") which may record such information, including information on the Customer's business and its proprietors. The CRAs and FPAs may create a record of the name and address of the Customer and its proprietors if there is not one already.
- 29.3** O2 may also monitor the Customer's usage of the Services for the purpose of controlling O2's credit risk and the Customer's exposure to fraudulent usage.

30 PUBLICITY AND CASE STUDIES

- 30.1** O2 may reference the Customer in written or verbal company announcements and/or communications (for example, company results updates or annual company reports), provided that such reference is limited to the use of the Customer's name only.
- 30.2** The Customer agrees to engage with O2 for the purposes of creating a case study in relation to the Services. Accordingly, O2 may contact the Customer to produce a case study during the first 6 months following implementation of the Services. O2 shall not release any such case study until the Customer has approved the content.

31 GOVERNING LAW

- 31.1** The Master Agreement and each Call-off Contract, and any issues or disputes of whatever nature arising out of or in any way relating to them or their formation (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the laws of England and Wales. The Parties submit to the exclusive jurisdiction of the courts of England and Wales.



1. SMARTSTEPS

AGREEMENT FOR THE PROVISION OF SMARTSTEPS DATA, EQUIPMENT AND SERVICES

WHEREAS:

- (A) O2 operates a mobile telecommunications network.
- (B) Use of O2's network by O2's customers generates significant quantities of valuable information which the Customer wants to utilise to assist it in making business decisions.
- (C) In this Agreement, O2 and the Customer set out the terms upon which O2 will provide the Customer with Equipment and other Services (including the provision of Anonymised and Aggregated Data and Enhanced Data).

IT IS AGREED as follows:

1. INTERPRETATION AND DEFINITIONS

- 1.1 In this Agreement, unless the context requires otherwise, the following expressions shall have the following meanings:

Affiliate	means any undertaking which is a subsidiary undertaking or parent undertaking (including the ultimate parent undertaking) of the relevant party and any company which is a subsidiary undertaking of such parent undertaking (the terms subsidiary undertaking and parent undertaking company having the meanings set out in Section 1162 of the Companies Act 2006).
Agreement	means the terms and conditions set out in this document;
Anonymised and Aggregated Data	means aggregated data about several individuals based on how mobile devices interact with O2's network equipment and any other Equipment that has been combined to show behaviour, movement and distribution of people without identifying individuals within the data and presented in a form where re-identification of individuals through its combination with other data is not likely to occur;
Change of Control	occurs if any entity or person obtains ownership of more than 50% of shares carrying a right to vote in the Customer or its holding company (as that term is defined in s1159 of the Companies Act 2006) or if there is a change in the ownership of the legal power to direct, or cause the direction of, the general management of policies of the Customer;
Charges	means the fees and charges payable by the Customer to VMB for the Services, as set out in the Statement of Work;
Combined Materials	has the meaning set out in clause 8.2(b);
Commencement Date	means the commencement date specified in the Statement of Work, or if no such date is specified, the date on which the Customer first receives the Services;

Confidential Information	means all product, business, market, strategic or other information or data in any medium or format (including written, oral, diagrammatical, electronic or any other storage medium and including the Deliverables, trade secrets and information relating to the methods or techniques used by O2 in designing or developing the Services) disclosed by one party to the other party under or in connection with this Agreement and/or a Statement of Work, whether or not marked or described as "confidential", that one party discloses to the other party under this Agreement;
Customer Data	means any data, information or materials that is either owned by the Customer or licensed to it by a third party;
Data Protection Laws	means all applicable laws and regulations relating to the processing of personal data and privacy including the Data Protection Act 2018 ("DPA"), the General Data Protection Regulation 2016/679 once in force ("GDPR") and any statutory instrument, order, rule or regulation made thereunder, as from time to time amended, extended, re-enacted or consolidated. The terms "Data Controller", "Data Processor", "Data Subjects" and "Personal Data" shall have the meaning given to them in the DPA or GDPR;
Deliverables	means all reports, information, data and other documents and materials provided by O2 including the Anonymised Aggregated Data, the Enhanced Data and any other deliverables described in a Statement of Work;
Delivery Date	means the date on which the Equipment is delivered to the respective Site(s), as specified in the Statement of Work;
Effective Date	has the meaning set out on page 2 of this Agreement;
Enhanced Data	means the Anonymised and Aggregated Data combined with other third party data or Customer Data by O2 as further described in the Statement of Work;
Equipment	means the hardware or equipment specified in the Statement of Work, which is provided to the Customer by O2;
Force Majeure Event	means an event, the occurrence of which is beyond the reasonable control of a party and which could not reasonably be planned for or avoided, including the following: an Act of God (including fire, storm, lightning, landslides, earthquake or other natural disaster), act of terrorism, war or warlike operations, civil unrest or disturbances, insurrections or riot, strikes, lockouts or other industrial disturbances, blockades, epidemics, governmental or quasi-governmental regulations and directions;
Initial Term	has the meaning set out in clause 2.5;

Intellectual Property Rights	means (i) patents, designs, trade marks and trade names (whether registered or unregistered), copyright and related rights, moral rights, database rights, know-how and Confidential Information; (ii) all other intellectual property rights and similar or equivalent rights anywhere in the world which currently exist or are recognised in the future; and (iii) applications, extensions and renewals in relation to any such rights;
Lease	means the provision of the Equipment by O2 to the Customer in accordance with this Agreement and for the duration specified in the Statement of Work;
Licence	has the meaning set out in clause 8.2;
Permitted Purpose	means use for the Customer's internal business purposes as further described in the relevant Statement of Work. For the avoidance of doubt all sales, commercial exploitation and/or commercialisation of the Deliverables and Combined Materials by Customer is expressly prohibited;
Services	means the services specified in any Statement of Work including but not limited to the provision of the Deliverables, and the provision and delivery of the Equipment (if applicable);
Site(s)	means the premises specified in the Statement of Work where the Equipment will be delivered by O2 and located from the Delivery Date and for the duration of this Agreement;
Statement of Work	means a statement of work under this Agreement which has been populated in accordance with this Agreement and signed by an authorised representative of each party;
SOW Term	means the initial period of the Statement of Work as set out in the Statement of Work;
Working Day	means a day (other than Saturday or Sunday) on which banks are open for general business in England; and
Year	means the first, and each subsequent, consecutive period of 12 months of this Agreement commencing on the Effective Date.

1.2 In this Agreement:

- (a) the headings are for convenience only and shall not affect the interpretation of this Agreement;
- (b) any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time;
- (c) reference to clauses are to the clauses of this Agreement;
- (d) references to one gender includes the other gender and references to the singular includes the plural and vice versa;
- (e) words beginning with capital letters are intended to have the meaning given to them in this Agreement;

- (f) where any matter requires consent or is to be agreed, such consent or agreement must be recorded in writing; and
 - (g) the words “including”, “include”, “includes” or “included” shall be deemed to be followed by the words “without limitation”.
- 1.3 The Parties acknowledge and accept that in these terms, any references to:
- (a) “Customer” shall mean “Buyer” and references to “O2” shall mean “Supplier”.
 - (b) Any reference to the “Agreement” or “Call Off Contract” or both of them, shall only mean the “Call Off Contract”.

2. STRUCTURE AND TERM

- 2.1 This Agreement will govern the provision of Services by O2 pursuant to one or more Statements of Work.
- 2.2 If the parties agree that O2 will provide specific Services, then such Services will be documented in a Statement of Work in accordance with the Statement of Work template set out in the Schedule to this Agreement. The Statement of Work will, at minimum, include the following information:
- (a) the term of the Statement of Work;
 - (b) the Services to be performed, including a description of the Deliverables and any Equipment to be provided;
 - (c) the Permitted Purpose; and
 - (d) O2’s Charges for the Services.
- 2.3 A Statement of Work will be deemed to have been agreed by the parties only after the Statement of Work has been signed by authorised representatives of the Customer and O2.
- 2.4 In the event of any conflict or inconsistency between this Agreement and a Statement of Work, the terms of this Agreement shall prevail (unless the parties have expressly amended the terms of the Agreement in the Statement of Work in relation to the subject matter of the Statement of Work).
- 2.5 This Agreement will commence on the Effective Date and, unless terminated earlier pursuant to clause 13, shall continue in force for an initial term of 12 months (the “**Initial Term**”) and thereafter until terminated by notice pursuant to clause 13.
- 2.6 The term of each Statement of Work shall be as detailed in the relevant Statement of Work.
- 2.7 If agreed in a Statement of Work, a Statement of Work may automatically renew from time to time and the Services provided under that Statement of Work will be available for such extended periods unless the relevant Statement of Work is terminated in accordance with its terms or this Agreement. Where a Statement of Work is automatically renewed, the

Customer will be required to pay Charges for each extended period as set out in the relevant Statement of Work.

3. PAYMENT OF CHARGES

- 3.1 The Customer agrees to pay the Charges for the Services as detailed in the Statement of Work in full without any deduction or set off.
- 3.2 O2 shall issue invoices to Customer for the Charges in accordance with the invoicing terms set out in the relevant Statement of Work. The Customer will make payment of the Charges within thirty (30) days of the date of receipt of O2's invoice.
- 3.3 If the Customer does not make payment of the Charges by the due date, O2 shall be entitled (without prejudice to any other remedies it may have) to:
 - (a) charge and receive interest on the amount outstanding at the rate of 4% per annum above the Bank of England base lending rate applicable at the time. Such interest shall accrue from the due date of the relevant outstanding Charges until the date on which payment is received by O2 and shall be calculated on a daily basis; and/or
 - (b) suspend the provision of the relevant Services with as much prior notice as O2 considers to be reasonably practicable, until such time as all payments due including all interest accrued has been paid and satisfied in full.
- 3.4 The provisions of clause 3.3 shall not apply to any sums disputed by the Customer if:
 - (a) the dispute is reasonable and bona fide; and
 - (b) the Customer notifies O2 of the disputed sum within 30 days of the date of the relevant invoice.
- 3.5 All sums payable hereunder shall be exclusive of value added tax and any other customs, duties or taxes, which shall be charged at the rate prevailing from time to time.
- 3.6 The parties agree that O2 may bill the Customer for some or all of the Charges through an O2 Affiliate, including but not limited to Telefonica UK Limited, acting as O2's billing and collections agent (the "Billing Agent"). Any invoice for Services from a Billing Agent must be settled on and in accordance with the terms of this Agreement. The Billing Agent shall have O2's authority to recover any outstanding Charges in respect of such Services on O2's behalf and the Customer agrees to deal directly and exclusively with the Billing Agent in respect of the same.

4. THE SERVICES

- 4.1 O2 will provide the Customer with the Services set out in each Statement of Work.
- 4.2 The provision and use of the Services shall be subject to the terms and conditions of this Agreement.

5. USE OF THE DELIVERABLES

5.1 The Customer shall at all times:

- (a) only use the Deliverables for the Permitted Purpose;
- (b) keep the Deliverables confidential and not make any public announcement in respect of the same without the prior written approval of O2 as to its form and content;
- (c) not make the Deliverables available to any third party without O2's prior written consent;
- (d) only permit access to the Deliverables to its officers, employees and contractors who need access as part of the Permitted Purpose and who are required to keep the Deliverables confidential in accordance with the obligation in clause 12;
- (e) not copy, distribute, publish, commercially exploit, reproduce, translate, adapt, vary, attempt to decompile, reverse engineer or modify all or any part the Services or Deliverables other than in accordance with the Permitted Purpose;
- (f) not, and not attempt to, identify any individual from the Deliverables or the Deliverables in combination with other data held by the Customer; and
- (g) ensure that the Deliverables are used in accordance with all instructions reasonably specified by O2.

5.2 If the Customer becomes aware of any unauthorised copying, disclosure or use of the Deliverables, it will immediately notify O2 and take all steps necessary to prevent further unauthorised copying, disclosure or use.

5.3 The Customer may disclose the Deliverables and its use of the Services when legally compelled by a court or other government authority. To the extent permitted by law, the Customer will promptly provide O2 with sufficient notice of all available details of the legal requirement and reasonably cooperate with O2's efforts to challenge the disclosure, seek an appropriate protective order, or pursue such other legal action, as O2 may deem appropriate.

5.4 A breach of this clause 5 will be deemed a material breach of this Agreement incapable of remedy for the purposes of clause 13.3(a)(i).

6. EQUIPMENT

6.1 In the event that O2 is providing Equipment to Customer in accordance with a Statement of Work:

- (a) Title to the Equipment shall at all times remain with O2. O2 shall lease the Equipment to the Customer for the duration of the Lease specified in the Statement of Work. Risk in the Equipment shall pass to the Customer on the Delivery Date and remain with the Customer until returned to O2 following the expiry (or earlier termination) of the Lease.

- (b) The Equipment is leased to the Customer "as seen". O2 makes no representations and gives no warranties as to the quality, condition, state or description of the Equipment, or its fitness or suitability for any purpose. All implied statutory or common law terms, conditions and warranties as to the Equipment are excluded to the fullest extent permitted by law.
- (c) The Customer shall be responsible (at its cost) for ensuring any Site is prepared by the Delivery Date and for the provision of all necessary access and facilities reasonably required to deliver the Equipment. Subject to the Customer's compliance with its obligations under this Agreement, O2 shall use reasonable endeavours to supply and deliver the Equipment at the Site(s) on the Delivery Date or as otherwise agreed between the parties in accordance with the Statement of Work. If O2 is prevented from carrying out the delivery on the Delivery Date because no such preparation has been carried out, O2 may levy additional charges to recover its reasonable loss arising from this event.
- (d) O2 may use third party suppliers to deliver the Equipment. The Customer will give all such reasonable assistance and access to such suppliers as if they were employees of O2.
- (e) O2 may use and share the Customer's details with O2's suppliers for the purposes of meeting O2's obligations under this Agreement. The Customer acknowledges and agrees that O2's suppliers may contact the Customer directly.
- (f) The Customer shall:
 - (i) notify O2 of any claims or threatened claims regarding the presence of the Equipment at a Site; and
 - (ii) indemnify O2 for all costs, claims, damages and expenses (including legal fees) in relation to any legal proceedings brought by any third party as a result of the installation of the Equipment at a Site being a breach of the terms of the lease under which the relevant leaseholder holds an interest in the Site including the cost of rectifying the breach by removing the Equipment.
- (g) The Customer shall, at all times:
 - (i) install the Equipment correctly and in accordance with the instructions provided by O2;
 - (ii) not relocate any unit of the Equipment or remove any unit of the Equipment from the location and premises in which it is installed without the prior consent of O2;
 - (iii) look after, use and operate the Equipment only in accordance with the manufacturer instructions and the reasonable instructions provided by O2 from time to time and solely for the purpose for which the Equipment was designed;
 - (iv) not have the Equipment repaired or serviced except as authorised by O2;

- (v) ensure the Equipment has not been modified or repaired by any unauthorised party or using any unauthorised parts, subassemblies or software without the prior written consent of O2;
 - (vi) make an electricity supply available for the use of the Equipment at no cost to O2 including providing continuous mains electricity supply, connecting points and, if applicable, internet connectivity to each unit of the Equipment whilst the relevant unit of Equipment is located at the Site(s);
 - (vii) ensure all of the Equipment is stored securely;
 - (viii) not prevent, delay, limit, restrict, intercept or modify any internet communications sent to or from the Equipment;
 - (ix) not, and not attempt to, extract, copy, modify or decompile any software supplied as part of the Equipment;
 - (x) not use any software supplied as part of the Equipment other than as part of the Equipment and for the purpose of receiving the Services;
 - (xi) not remove or obscure any label or marking on the Equipment;
 - (xii) notify O2 in writing as soon as reasonably practicable if Customer becomes aware of any malfunction, loss or theft of or damage to any unit of the Equipment;
 - (xiii) not place or use the Equipment in any high risk environment that may invoke potential risks of death, bodily injury or severe property or environmental damage including airports or aircraft, hospitals and/or nuclear installations. For the avoidance of doubt, this shall not apply to the use of the Equipment in retail shopping locations within airports or hospitals;
 - (xiv) not modify, repair, alter, tamper with, open, remove or disconnect any of the Equipment or take any steps which will or may interfere with the intended operation of the Equipment;
 - (xv) not create or allow any charges, liens, pledges or other encumbrances to be created over the Equipment; and
 - (xvi) comply with all applicable laws and regulatory provisions, and not cause or permit any of the Equipment to be used or operated in any manner contrary to any applicable laws or regulatory provisions.
- (h) A breach of any of the provisions in clause 6.1(g) above will be deemed a material breach of this Agreement incapable of remedy for the purposes of clause 13.3(a)(i).
- (i) The Customer grants O2, its agents, subcontractors and employees an irrevocable licence at any time to enter any premises where the Equipment is or may be stored such that O2 may at all times inspect, maintain, test, adjust, configure, repair, replace, remove, upgrade,

alter and use the Equipment as O2, in its sole discretion, determines applicable for the purpose of providing the Services.

- (j) Except where faults in the Equipment are due in whole or in part to the acts or omissions of the Customer, O2 shall, when notified of a fault with the Service by the Customer, use reasonable endeavours to repair or replace (at O2's option) any faulty Equipment supplied under this Agreement at O2's cost. The Customer shall return the defective Equipment to O2 by recorded delivery to the delivery address specified by O2 (at O2's cost). Replacement or repaired parts will be returned to Customer at O2 or O2's supplier's cost. Risk of loss or damage shall pass to the receiving party on delivery.
- (k) Where any fault in the Equipment is caused in whole or part by the Customer, any repair or replacement of the Equipment shall be at the Customer's cost, including the collection and/or delivery of any repaired or replacement Equipment.
- (l) O2 shall have no liability for faults arising in the Equipment or failure to deliver against the Services set out in the Statement of Work where there is an interruption in the power supply, except where such power supply failure is directly caused by O2.
- (m) O2 shall have no liability for any failure and/or delay in delivering, repairing or replacing Equipment or for any failure and/or delay in providing the Services as a result of the Customer failing to comply with this clause 6 or any act or omission of any Customer employee or third party. The Customer shall reimburse O2 for any administrative charges (including any relevant third party costs) that O2 incurs as a result of any failure, act or omission to comply with this clause 6.
- (n) Where the Lease has terminated in accordance with the relevant Statement of Work or otherwise under the terms of this Agreement, the Customer shall return the Equipment to O2 by recorded delivery at the delivery address specified by O2. Any costs associated with the return of the Equipment shall be borne by the Customer. In the event that O2 has not received the Equipment within one (1) calendar month after the Lease has terminated, the Customer shall be charged at an on-going rate of £100 per Site for each calendar month that the Equipment is not received by O2.

7. O2 WARRANTIES

- 7.1 In consideration of payment of the Charges, O2 agrees to carry out the Services in accordance with the terms of this Agreement.
- 7.2 O2 warrants that:
 - (a) it will comply with all applicable law;
 - (b) subject to clause 7.3, the Deliverables will be accurate to the extent specified in the Statement of Work;
 - (c) the Services will not infringe or violate any Intellectual Property Rights of any third parties;

- (d) the Equipment shall upon delivery conform in all material respects to the description set out in the Statement of Work;
- (e) it has full authority to enter into this Agreement and that it has or will obtain prior to the Commencement Date, any necessary licences, consents, and permits required of it for the provision of the Services; and
- (f) it will use the care and skill reasonably expected of a telecommunications operator in the collection of the Anonymised and Aggregated Data and compilation by it (or its employees, contractors or agents) of advice and opinion based on the Anonymised and Aggregated Data.

7.3 While O2 uses reasonable endeavours to ensure that the Deliverables are accurate, the Customer acknowledges that:

- (a) the accuracy of the Anonymised and Aggregated Data is subject to the technical limitations of how the O2 network equipment and the Equipment operate;
- (b) Enhanced Data provided to Customer will be based on Anonymised and Aggregated Data combined with information provided to O2 by Customer or third parties whose accuracy O2 cannot control. O2 does not warrant or represent the accuracy of the third party data or Customer Data that may form part of the Enhanced Data or be used to formulate the Enhanced Data and will not be liable for any loss suffered by the Customer as a result of any use of any such Enhanced Data including any loss suffered as a result of any claim by the subject of any such Enhanced Data (except where any such claim is caused by a breach by O2 of clause 14.1); and
- (c) O2 does not warrant or represent the accuracy of the third party data or Customer Data that may form part of the Combined Materials and will not be liable for any loss suffered by the Customer as a result of the use of any such Combined Materials.

7.4 The express terms of this Agreement are in lieu of all warranties, conditions, terms, undertakings and obligations implied by statute, common law, custom, trade usage, course of dealing or otherwise, all of which are hereby excluded to the fullest extent permitted by law.

8. INTELLECTUAL PROPERTY RIGHTS

8.1 Title to, and all of the Intellectual Property Rights in, the Services and developed in the course of providing the Services to Customer shall at all times remain vested in O2 (or O2's third party licensors, as applicable) who shall be entitled to enforce any of the terms of this Agreement relating to the Customer's use of the Services directly against the Customer, and the Customer shall acquire no proprietary rights whatsoever therein. For the avoidance of doubt, O2 owns the Deliverables at all times and may use them however it sees fit, and O2 shall be entitled to use know-how acquired, principles learned or developed or experience gained during the performance of any Services to perform work for other customers or for its own internal planning.

- 8.2 Subject to the terms and conditions of this Agreement, O2 hereby grants to the Customer a non-exclusive, royalty free, revocable, non-assignable, non-sublicensable licence to:
- (a) use the Deliverables solely for the Permitted Purpose; and
 - (b) to combine some or all of the Deliverables with Customer Data that the Customer is legally entitled to use and combine in this way (the **“Combined Materials”**) and use such Combined Materials solely in accordance with the Permitted Purpose,
- (the **“Licence”**). The period of the Licence shall commence on the Commencement Date and shall terminate on the earlier of (a) expiry or termination of the relevant Statement of Work for whatever reason; or (b) upon termination of this Agreement for whatever reason.
- 8.3 For the avoidance of doubt, O2 shall retain all Intellectual Property Rights in all Deliverables incorporated into Combined Materials but will not take title in and/or own the Intellectual Property Rights in:
- (a) the Customer Data; or
 - (b) the Combined Materials in totality.
- 8.4 From the date of termination or expiry of this Agreement or the relevant Statement of Work, Customer must cease using the Deliverables, remove any Deliverables from the Combined Materials, and not create any further Combined Materials incorporating the Deliverables.

9. INDEMNITY

- 9.1 In the event that the Customer is subject to a claim by a third party in respect of any alleged infringement of any Intellectual Property Rights arising from its normal use of the Services in accordance with the terms of this Agreement and the relevant Statement of Work then O2 will indemnify the Customer in relation to sums awarded or paid in settlement for such claim.
- 9.2 In the event that O2 is subject to a claim by a third party in respect of any alleged infringement of any Intellectual Property Rights arising from O2's possession or use of any information or data supplied by the Customer to O2 in relation to the Services (including Customer Data) then Customer will indemnify O2 in relation to sums awarded or paid in settlement for such claim.
- 9.3 In the event that Customer uses or allows usage of the Deliverables (including where incorporated into Combined Materials) outside the scope of this Agreement and/or the Permitted Purpose, Customer will indemnify O2 against all actions, claims, fines, proceedings, losses, damages, costs, and expenses of any sort.
- 9.4 The indemnities given in clauses 9.1 and 9.2 above are given on the condition that:
- (a) the indemnified party shall promptly notify the indemnifying party in writing of any such allegation and/or claim and shall not make any

admissions and/or settlement and/or compromise unless the indemnifying party gives its prior written consent;

- (b) the indemnified party seeks to mitigate the loss where it can do so without unreasonable inconvenience or cost;
- (c) at the indemnifying party's request and expense, the indemnified party shall permit the indemnifying party (or its licensors) to approach legal advisers of its choice, conduct all negotiations and/or proceedings and the indemnified party shall give all reasonable assistance;
- (d) the indemnifying party may, at its expense, modify or replace the infringing items to avoid any alleged or actual infringement. The modification or replacement must not affect the performance or functionality of the Services. Upon exercising the rights in this clause (d) the indemnifying party shall have no further liability under the indemnity at clause 9.1 or 9.2 (as the case may be) but shall remain liable to the indemnified party under the indemnity for any accrued liability up to the time of exercising such right under this clause (d); and
- (e) the indemnity in clause 9.1 shall not apply to infringements or breaches arising directly from (1) the Customer's breach of the terms of this Agreement; (2) the modification of the Services by the Customer; or (3) the combination of the Services with other items not supplied under this Agreement (including the incorporation of Deliverables into Combined Materials). If the events in (1), (2) and/or (3) apply, Customer shall indemnify O2 in respect of all actions, claims, fines, proceedings, losses, damages, costs, and expenses of any sort.

10. AUDIT

- 10.1 O2 and its agents may inspect, review, verify and take copies of any associated records and documentation in the control or possession of the Customer to ensure compliance with the obligations set out in this Agreement. The Customer will give O2 reasonable access to its facilities, premises and systems in order to facilitate such an audit.
- 10.2 Any audits carried out under this clause shall be carried out during normal business hours on a Working Day with at least five (5) Working Days' prior notice.

11. LIABILITY

- 11.1 This clause 11 sets out each party's entire liability (including any liability for the acts and omissions of each party's employees, agents or sub-contractors) to the other party in tort, contract or otherwise, arising out of or in connection with the performance or contemplated performance or non-performance of this Agreement.
- 11.2 Neither party will be liable to the other under or in connection with this Agreement for any loss (whether direct or indirect) of profit, revenue, anticipated savings, goodwill, business interruption, wasted expenditure or

any loss or corruption of data, or for any indirect or consequential loss or damage whatsoever.

- 11.3 The total aggregate liability of either party to the other in any Year in respect of all claims (including for negligence, breach of contract or otherwise) arising in connection with this Agreement and all Statements of Work shall be the greater of £500,000 or 100% of the Charges paid or payable to O2 by the Customer for the Services provided during that Year.
- 11.4 Nothing in this Agreement shall exclude or limit the liability of either party for:
- (a) death or personal injury resulting from that party's negligence;
 - (b) fraud or fraudulent misrepresentation; or
 - (c) any liability which cannot be excluded or restricted by law.
- 11.5 The provisions of clauses 11.2 and 11.3 shall not apply to:
- (a) clause 9 (Indemnity); or
 - (b) any breach of the Customer's obligation to pay the Charges.

12. CONFIDENTIALITY

- 12.1 Neither party will divulge Confidential Information disclosed by the other party to any third party without the prior written consent of the disclosing party except to such of its employees, officers and contractors as may need to know the Confidential Information for the purposes of the implementation and/or performance of this Agreement and/or any Statement of Work and in each case who agree to be bound by the provisions of this clause 12.
- 12.2 The obligation of confidence set out in this clause 12 shall not apply to any material or information which is:
- (a) in the public domain (other than as a result of a breach of this Agreement);
 - (b) already lawfully known to the receiving party prior to the Effective Date;
 - (c) lawfully received from a third party;
 - (d) required to be disclosed for the purposes of any judicial proceedings arising out of a breach of this Agreement or a Statement of Work, or pursuant to an order of a court or other tribunal or regulatory authority of competent jurisdiction; or
 - (e) required to be disclosed by an applicable law, or by or in connection with the rules of any stock exchange on which the shares of either party or its holding company (as that term is defined in section s1159 Companies Act 2006) are listed (including where disclosure is required as part of any actual or potential offering, placing and/or sale of securities of either party or its holding company).
- 12.3 The obligation of confidence set out in this clause 12 shall apply in the period commencing on the Effective Date and ending three years after the termination or expiry of this Agreement. In the event that a party is obliged to

disclose the Confidential Information to a third party it shall, to the extent permitted by law, promptly provide the other party with as much notice of such requirement as is possible in the circumstances.

13. TERMINATION

- 13.1 Either party may terminate this Agreement by giving the other party not less than three (3) months prior written notice at any time provided that such notice does not take effect prior to the last day of the Initial Term.
- 13.2 Either party may terminate this Agreement and/or one or more Statements of Work for convenience by:
 - (a) Providing to the other party thirty (30) days' notice in writing; and
 - (b) In the case of termination by the Customer, paying to O2 the balance of all Charges due or that would have been due during the SOW Term under the Statement(s) of Work to be terminated.
- 13.3 Either party may terminate this Agreement and/or one or more Statement of Work on written notice to the other (either immediately or from the date specified in such notice) if:
 - (a) the other party is in material breach of any term of this Agreement and such breach is either:
 - (i) incapable of remedy; or
 - (ii) is not remedied to the reasonable satisfaction of the first party within thirty (30) calendar days of a written request from the first party to remedy such breach;
 - (b) the other party becomes subject to any voluntary arrangement; is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; has a receiver, manager, administrator or administrative receiver appointed over its assets, undertakings or income; has passed a resolution for its winding-up; has a petition presented to any Court for its winding-up or for an administration order; or any other analogous event; or
 - (c) the other party ceases, or threatens to cease, carrying on business.
- 13.4 If applicable law or an applicable government or court order prohibits or restricts (or is reasonably deemed by O2 to prohibit or restrict) performance of the Services, either at all or in accordance with this Agreement and/or the relevant Statement of Work, O2 shall be entitled to do one of the following on giving immediate written notice to the Customer:
 - (a) modify the affected Services as necessary to accommodate such prohibition or restriction; or
 - (b) terminate the Agreement and/or relevant Statement of Work in respect of those Services which are affected by such prohibition or restriction (without liability).
- 13.5 O2 shall be entitled to terminate this Agreement immediately on written notice if Customer undergoes a Change of Control.

- 13.6 O2 may, without prejudice to its other rights under this Agreement, suspend or terminate a Service if an O2 supplier suspends, terminates or lets expire the provision of services to O2 which O2 requires to provide such Service and for which O2 is unable to find a replacement supplier, having used its reasonable endeavours. O2 will provide as much notice as is reasonably possible.
- 13.7 Termination of this Agreement or a Statement of Work for any reason (including expiry) shall be without prejudice to:
- (a) any rights of either party which may have accrued prior to termination or expiry, including in respect of a breach of this Agreement or a Statement of Work or in respect of any monies payable by one party to the other for any period prior to termination or expiry; or
 - (b) any provision of this Agreement which by its terms is intended to survive termination, including clauses 3 (Payment of Charges), 6 (Equipment), 8 (Intellectual Property Rights), 9 (Indemnities), 10 (Audit), 11 (Liability), 12 (Confidentiality), 13 (Termination), 13.9 (Statutory Compliance and Security) and 22 (Governing Law).
- 13.8 If this Agreement is terminated or for any reason expires:
- (a) any Statement of Work in force at the point of termination shall automatically terminate;
 - (b) each party will cease use of the other party's Confidential Information;
 - (c) each party shall on written request destroy or return to the other party all tangible property and Confidential Information belonging to the other party that is in its possession, custody or control;
 - (d) any Licence granted to the Customer ceases immediately; and
 - (e) the Customer shall immediately arrange for the return of the Equipment to O2 in accordance with clause 6.1(n) of this Agreement.
- 13.9 O2 may, without prejudice to its other rights under this Agreement, suspend or disconnect the Services immediately without notice if, in O2 deems (in O2's sole discretion) that Customer is not complying with the obligations set out in clause 5 (Use of the Deliverables) and/or clause 6 (Equipment).
- 13.10 Where O2 has suspended the Services in accordance with clause 13.9, O2 shall restore the Services when the circumstances described in clause 13.8 are remedied to O2's satisfaction.
- 13.11 Under no circumstances shall O2 incur any liability in respect of any losses suffered and/or costs borne by the Customer as a result of the suspension of Services by O2 in accordance with this Agreement.

14. STATUTORY COMPLIANCE AND SECURITY

- 14.1 Both parties shall at all times comply fully with all relevant statutory enactments (including Data Protection Laws), regulations and requirements

made by any governmental authority or equivalent body of competent jurisdiction (and all re-enactments thereof and amendments thereto).

- 14.2 Each party warrants to the other that it has in place and undertakes to maintain appropriate technical and organisational measures against the accidental, unauthorised or unlawful processing, destruction, loss, damage or disclosure of the Deliverables and to have adequate security programmes and procedures to ensure that unauthorised persons do not have access to any equipment used to process such Deliverables or on which any such Deliverables are stored.

15. FORCE MAJEURE

- 15.1 If a Force Majeure Event occurs which prevents either party (the “**Affected Party**”) from performing any of its obligations to the other (the “**Other Party**”), or causes a delay in performance, the Affected Party shall not be liable to the Other Party and shall be released from its obligation to perform the Services to the extent that its ability to perform the Services has been directly affected by the Force Majeure Event, provided always that the Affected Party:

- (a) notifies the Other Party in writing as soon as reasonably practical of the occurrence of the Force Majeure Event and the nature and likely duration of its impact upon the Other Party;
- (b) continues to perform all its obligations which have not been affected by the Force Majeure Event;
- (c) resumes normal performance of all affected obligations as soon as reasonably possible after the Force Majeure Event ceases to have an impact, and notifies the Other Party in writing promptly of such resumption; and
- (d) uses all reasonable endeavours to mitigate the effects of the Force Majeure Event.

- 15.2 In the event that the obligations of the Affected Party are suspended by reason of a Force Majeure Event for a period in excess of thirty (30) calendar days then either party may on giving written notice to the other terminate the relevant Statement of Work and/or the Agreement with immediate effect.

16. ASSIGNMENT

- 16.1 The Customer shall not assign or transfer the Agreement to any Third Party, provided that the Customer may assign or transfer the Agreement to any of its Affiliates with the prior written consent of O2 (such consent not to be unreasonably withheld or delayed).
- 16.2 O2 may assign or transfer the Agreement to any of its Affiliates and may subcontract the performance of all or part of the same, provided that O2 shall remain liable for the acts and omissions of its subcontractors.
- 16.3 Subject to clauses 8.1 and 9.4(c), no right is conferred on any third party whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

17. VARIATION

- 17.1 No variation of this Agreement shall be effective unless it is recorded in writing and signed by both parties.

18. WAIVER

- 18.1 Neither party will be treated as having waived any rights by not exercising (or by delaying exercise of) any rights under this Agreement.

19. ENTIRE AGREEMENT

- 19.1 This Agreement and any Statement of Work under this Agreement sets out all of the terms agreed between the parties relating to its subject matter and supersedes all previous agreements made by the parties relating to its subject matter. In entering into this Agreement and any Statement of Work, neither party has relied on, and neither party will have any right or remedy based on, any statement, representation, promise, condition, undertaking, term or warranty (whether made innocently or negligently), except those expressly stated in this Agreement.

20. SEVERANCE

- 20.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

21. ANTI BRIBERY AND CORRUPTION

- 21.1 Each party agrees and undertakes to the other that in connection with this Agreement and the transactions contemplated by this Agreement, they will each respectively comply with all applicable laws, rules, regulations of the United Kingdom relating to anti-bribery and anti-money laundering, including the Bribery Act 2010.
- 21.2 In the event that either party (the "**Enquirer**") has any basis for a good faith belief that the other party may not be in compliance with the undertakings and/or requirements set out in this clause 21 of this Agreement, the Enquirer shall advise the other party in writing and the other party shall cooperate fully with any and all enquiries undertaken by or on behalf of the Enquirer in connection therewith, including by making available the other party's relevant personnel and supporting documents if reasonably deemed necessary by the Enquirer.
- 21.3 Any breach by a party of this clause 21 of this Agreement shall be deemed to be a material breach of this Agreement incapable of remedy for the purposes of clause 13.3(a) of this Agreement.

22. GOVERNING LAW

- 22.1 This Agreement (including any related non-contractual obligations) shall be governed by and construed in accordance with the laws of England and the parties hereby submit irrevocably to the exclusive jurisdiction of the English courts.

23. NOTICES

- 23.1 Any notice to be given under this Agreement may be given in writing by recorded delivery post or email to the following address:

For O2

FAO: Head of Legal

Address: 500 Brook Drive, Reading, RG2 6UU

Email: legalnotices@telefonica.com

For Customer

FAO: [Insert]

Address: [Insert]

Email: [Insert]

- 23.2 Any notice given in accordance with clause 23.1 shall be deemed received:

- (a) if posted to the correct address, two (2) Working Days after being posted; or
- (b) if sent by email to the correct email address, at the time of transmission provided the sender can provide proof the notice was properly addressed,

provided that if any such notice would otherwise be deemed to be given after 5 pm (local time) on a Working Day or on a day which is not a Working Day, such notice shall be deemed to be given at 9 am (local time) on the next Working Day.

24. PUBLICITY & CASE STUDIES

- 24.1 O2 may reference the Customer in written or verbal company announcements and/or communications (for example, company results updates or annual company reports), provided that such reference is limited to the use of the Customer's name only.
- 24.2 The Customer agrees to engage with O2 for the purposes of creating a case study in relation to the Services. Accordingly, O2 may contact the Customer to produce a case study during the first 6 months following implementation of the Services. O2 shall not release any such case study until the Customer has approved the content.

25. RELATIONSHIP OF THE PARTIES

- 25.1 Nothing in this Agreement shall create, or be deemed to create; a partnership or joint venture between the parties and nothing in this Agreement shall be construed to appoint one party as the distributor, dealer or agent of the other.



2. SPATIAL INSIGHTS

SERVICE SCHEDULE – SPATIAL INSIGHTS SERVICE

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Service Schedule, in addition to those terms set out in the General Conditions, the following terms and expressions apply:

Term / Expression	Meaning
"Analytics Data"	means the analytical information derived from people's movement and demographic information captured by the Cameras which includes a real-time dashboard, email reports, heatmaps and location metrics;
"Analytics Platform"	means the online analytics dashboard and API that form part of the Service;
"Aura Vision"	means Aura Vision Labs Limited;
"APU Device"	means the on premise Aura Processing Unit (APU) devices which connect to the Customer's existing Cameras;
"Cameras"	means RTSP (Real Time Streaming Protocol) or ONVIF (Open Network Video Interface Forum) accessible static IP-cameras within the Locations from which the Service derives Analytics Data;
"Client"	means the Customer;
"Equipment"	means any ancillary Customer equipment to connect to, access or otherwise use the Service, including modems, hardware, servers, software, operating systems, networking, web servers, network switches and network video recorders;
"EULA"	means the Aura Vision end user license agreement terms of use for the Service, as set out in Appendix Two;
"Incident"	means: a) any reported event which is not part of the standard operation of the Service; and/or b) any reported fault, failure or defect in the APU Device, and which, in either case, causes disruption to or a reduction in the quality of the Service;
"Licence"	means a licence granted by Aura Vision that allows the Customer (and an End User as applicable) to use the Spatial Insights Service, subject to the terms of the EULA and this Agreement;
"Licensed Services"	means the Spatial Insights Service purchased by the Customer under this Agreement and which is subject to the Licence;
"Location(s)"	means the Customer locations in which the Spatial Insights Service operates;
"New Order Form"	means the document provided by O2 to the Customer which is completed by the Customer and which details the Customer's specific configuration parameters; and
"Service"	means the Spatial Insights Service set out in this Service Schedule and the EULA.

- 1.2 References to clauses and sub-clauses refer, unless otherwise stated, to clauses and sub-clauses of this Service Schedule; references to appendices are to the appendices to this Service Schedule, references to schedules are to the schedules of the Master Agreement or a Call-off Contract (as applicable) and references to paragraphs are to the paragraphs of the appendices to this Service Schedule.
- 1.3 The rules of interpretation set out in clauses 1.2 to 1.11 of the General Conditions shall apply equally to this Service Schedule.

2 SERVICE COMMENCEMENT

- 2.1 The Service Commencement Date for the Spatial Insights Service shall be the date upon which O2 or Aura Vision informs the Customer that all APU Devices, Equipment and the Analytics Platform have been successfully configured to deliver Analytics Data.

3 SERVICE DESCRIPTION

- 3.1 The Service includes the delivery of Analytics Data via the Analytics Platform and the provision of such APU Devices and Licences that the Customer may require in order to receive the Service, the volumes of which shall be set out in the Commercial Schedule.
- 3.2 The Service shall be provided directly to the Customer by O2's partner, Aura Vision.
- 3.3 Provision of the Spatial Insights Service is subject to the terms of this Service Schedule including the EULA provided at Appendix Two.
- 3.4 As part of the Service, Aura Vision will:
- a) provide documentation and remote support to assist the Customer in connecting and configuring the APU Devices to the Cameras and Equipment;
 - b) validate the Customer's Internet, Cameras and Equipment connections to the APU Devices and confirm that all APU Devices are able to receive and process video;
 - c) configure the Analytics Platform so that the Analytics Data provided is as informative as allowed by the available Camera views;
 - d) fine-tune analytics demographic accuracy for the Locations by training its software specifically on the Camera views that are accessed;
 - e) set up and deploy Aura Vision's machine learning software which may include any bespoke demographics specified in the Commercial Schedule (e.g. staff-customer segmentation);
 - f) manually validate the counting accuracy of the Analytics Platform;
 - g) provision 5 user accounts for access to the Analytics Platform, and supply the details of such to the Customer;
 - h) configure weekly automated email reports as agreed with the Customer;
 - i) provide up to four (4) hours of remote Analytics Platform on-boarding support to the Customer's appointed users in using the Service and Analytics Data; and
 - j) deliver the Analytics Data via the Analytics Platform.
- 3.5 O2 does not have access to, and cannot manage or support, the Customer's Aura Vision web portal, individual Licensed Service management portals, or any associated device services, assignments or additional APU Device management settings. These are the sole responsibility of the Customer.
- 3.6 The Customer acknowledges and accepts that:
- a) O2 has no liability beyond the processing of the New Order Form with the Customer and delivery of the signed New Order Form to Aura Vision. Appendix One to this Service Schedule includes links to relevant internet pages which include details of the Licensed Service, including any exclusions, prerequisites and limitations. Appendix Two sets out the EULA;
 - b) the content and location of any internet links in Appendix One (or elsewhere in this Service Schedule) is owned and managed by Aura Vision and is subject to change; and
 - c) there will be a two week calibration period following installation of the APU Devices to allow technical validation and accuracy audits.

4 CUSTOMER OBLIGATIONS

- 4.1** The Customer authorises O2 to share the following information with Aura Vision for the purpose of providing the Service:
- a) Customer business name and address details;
 - b) primary Customer contact name, email address and phone number for delivery of Licensed Services;
 - c) number of APU Devices;
 - d) duration of Licence term;
 - e) location name and address where each APU Device is to be installed and hosted;
 - f) Customer purchase order number(s);
 - g) order date and Service Commencement Date(s);
 - h) any additional service specifications i.e. age-gender segmentation, staff-customer segmentation, bespoke segmentation, bespoke integration development;
 - i) existing Customer Licences details (if applicable); and
 - j) any other such reasonable information as may be required by Aura Vision to allow O2 to provide the Service.
- 4.2** The Customer shall:
- a) promptly complete the New Order Form upon request from O2;
 - b) perform the on-premise integration of the APU Devices with the Cameras and Equipment in all Locations such that Aura Vision can remotely configure the APU Devices. Where the Customer fails to install the APU Devices, it shall nevertheless be liable for the Charges;
 - c) provide access and connection for each APU Device to the Cameras and Equipment; the Internet, and a power supply;
 - d) provide RTSP or ONVIF access information, including usernames, passwords and URLs for each Camera;
 - e) provide any additional network configuration settings, including but not limited to IP address and network masks, to enable the APU Devices to access all Cameras; and
 - f) where staff-customer segmentation is required, ensure that staff are instructed to wear a consistent uniform which is visually distinct from customer apparel, and provide a comprehensive set of example images where staff are wearing the full range of expected uniforms prior to demographic model training.

5 SUPPORT SERVICES AND CHARGES

- 5.1** The Customer acknowledges and accepts that the Service is being provided by O2's partner Aura Vision. On that basis:
- a) O2 shall support the Customer with;
 - i) a detailed assessment of Service deliverables;
 - ii) a detailed assessment of the Customers networking and security camera infrastructure and capability to deploy the Service;

- iii) quotations for the Service;
 - iv) the purchase of the Service; and
 - v) invoicing and invoicing queries related to the Service; and
- b) Aura Vision shall support the Customer with all other elements relating to the Service, subject to the EULA.

5.2 The Charges and associated commercial conditions for the Licensed Services are set out in the Commercial Schedule of this Call-off Contract.

6 SUPPORT LEVEL AGREEMENT

- 6.1 Aura Vision will use reasonable endeavours to make the Analytics Platform available 99% or more of the time during any calendar month subject to the exclusions in paragraph 6.2 below. This availability standard does not apply to the Analytics Data which is reliant on the Customer's infrastructure.
- 6.2 The calculation of the availability period during which the Analytics Platform is not available shall not include:
- a) planned maintenance windows where notice of planned unavailability has been provided to the Customer;
 - b) elapsed time during emergency changes;
 - c) periods of unavailability caused by actions or inaction of the Customer;
 - d) periods of unavailability arising from the Customer's Equipment, systems or websites;
 - e) periods of unavailability arising from Internet outages or faults; or
 - f) periods of unavailability reasonably deemed necessary by Aura Vision.

7 SUPPORT TERMS

- 7.1 Aura Vision will provide Incident support to the Customer via electronic mail on weekdays during the hours of 09:00 through 17:00 GMT, with the exclusion of public holidays.
- 7.2 The Customer may initiate a support ticket by emailing support@auravision.ai
- 7.3 Aura Vision will use reasonable endeavours to respond to support tickets within the timescales set out in Table 1 below.

Table 1 Response Times

Incident Severity	Description	Response Time
Severity 1 (Urgent)	Any error that has high visibility, there is no workaround, and it affects the Customer's ability to perform its business	First reply: within 1 business hour (UK GMT)
Severity 2 (High)	Any error that has high visibility, a workaround is available; however, performance may be degraded or functions limited and affects the Customer's ability to perform its business	First reply: within 2 business hours (UK GMT)
Severity 3 (Normal)	Any error that has high visibility, a workaround is available; however, performance may be degraded or functions limited and is not affecting the Customer's ability to perform its business	First Reply: within 24 business hours (UK GMT)

8 EXCLUSIONS

- 8.1 The following activities are outside the scope of the Spatial Insights Service:

- a) installation of the APU Devices; Aura Vision shall provide installation instructions to the Customer to assist with the installation process. The Customer accepts that should these instructions not be followed the Service may not work as detailed in this Service Schedule and neither O2 nor Aura Vision shall be liable for any such failure of the Service.
- b) the restoration or resolution of Incidents arising from the Customer's failure to perform its obligations under the Call-Off Contract;
- c) technical support in relation to the investigation, restoration or resolution of Incidents, including connection to or alteration of configurations of any Equipment, including Customer Equipment, and software beyond that described in this Spatial Insights Service Schedule;
- d) the provision of the Cameras, Equipment, Internet and power supply; and
- e) any other services not described within the scope of this Spatial Insights Service Schedule.

APPENDIX ONE – SERVICE RELATED INTERNET LINKS

The internet links included in Table 2 are owned, managed and maintained by Aura Vision, are provided here by O2 for information only, and are subject to change.

Table 2 Service Related Internet Links

Description	Internet Link
Creating an Aura Vision Labs account	https://auravision.ai/
Aura Vision Labs Web Portal terms of use and privacy policy	https://auravision.ai/privacy-policy

APPENDIX TWO – AURA VISION EULA

In the event of a conflict between the terms of this Appendix Two and those elsewhere in the Master Agreement or Call-off Contract, the terms of Appendix Two will prevail.

“**Service Validation Date**” refers to the date that Aura Vision has confirmed that all hardware devices (“**Hardware Devices**”), additional services, Client Equipment and Analytics Platform have been successfully configured to deliver Analytics Data.

1 SERVICES AND SUPPORT

- 1.1 Subject to the terms of this EULA, Aura Vision will use commercially reasonable efforts to provide Client the Services.

2 RESTRICTIONS AND RESPONSIBILITIES

- 2.1 Client will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services, Hardware Devices or any software, documentation or data related to the Services (“Software”); modify, translate, or create derivative works based on the Services, Hardware Devices or any Software (except to the extent expressly permitted by Aura Vision or authorized within the Services); use the Services, Hardware Devices or any Software for timesharing or service bureau purposes or otherwise for the benefit of a third; or remove any proprietary notices or labels. With respect to any Software and Hardware Devices that is distributed or provided to Client for use on Client premises or devices, Aura Vision hereby grants Client a non-exclusive, non-transferable, non-sublicensable license to use such Software and Hardware Devices during the Term only in connection with the Services.
- 2.2 Client represents, covenants, and warrants that Client will use the Services only in compliance with all applicable laws and regulations. Client hereby agrees to indemnify and hold harmless Aura Vision against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys’ fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Client’s use of Services.
- 2.3 Client shall be responsible for obtaining and maintaining the Cameras and Equipment and maintaining all Hardware Devices, Cameras and Equipment in all Locations. Client shall also be responsible for maintaining the security of the Hardware Devices, Cameras, Equipment, Client account, passwords (including but not limited to administrative and user passwords) and files, and for all uses of Client account or the Cameras and Equipment with or without Client’s knowledge or consent.
- 2.4 If Aura Vision must undertake additional work to resolve an interruption to the Service caused by any change of Location or modification to the Cameras, Equipment or Hardware Devices not made by Aura Vision and after the Service Validation Date the Client shall be billed for such additional work at an hourly rate of GBP £90 (“Support Fee”) and Client agrees to pay the additional Support Fee in the manner provided herein.

3 CONFIDENTIALITY; PROPRIETARY RIGHTS

- 3.1** Each party (the “Receiving Party”) understands that the other party (the “Disclosing Party”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “Proprietary Information” of the Disclosing Party). Proprietary Information of Aura Vision includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Client includes non-public data provided by Client to Aura Vision to enable the provision of the Services (“Client Data”).
- 3.2** The Receiving Party agrees:
- a) to take reasonable precautions to protect such Proprietary Information, and
 - b) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information.
- 3.3** The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document:
- a) is or becomes generally available to the public;
 - b) was in its possession or known by it prior to receipt from the Disclosing Party;
 - c) was rightfully disclosed to it without restriction by a third party;
 - d) was independently developed without use of any Proprietary Information of the Disclosing Party; or
 - e) is required to be disclosed by law.
- 3.4** Client shall own all right, title and interest in and to the Client Data. Aura Vision shall own and retain all right, title and interest in and to:
- a) the Services, Hardware Devices and Software, all improvements, enhancements or modifications thereto;
 - b) any software, applications, inventions or other technology developed in connection with the Services or support; and
 - c) all intellectual property rights related to any of the foregoing.
- 3.5** Notwithstanding anything to the contrary, Aura Vision shall have the right to collect and analyse data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Client Data and data derived therefrom), and Aura Vision will be free (during and after the term hereof) to:
- a) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Aura Vision offerings; and
 - b) disclose such data solely in aggregate or other de-identified form in connection with its business.
- 3.6** No rights or licenses are granted except as expressly set forth herein.

4 TERM AND TERMINATION

- 4.1** Subject to earlier termination as provided below, this EULA is for the Initial Service Term or Interim Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the “Term”), unless either party requests termination at least thirty (30) days prior to the end of the then-current term.
- 4.2** In addition to any other remedies it may have, either party may also terminate this EULA upon thirty (30) days’ notice (or without notice in the case of non-payment), if the other party materially breaches any of the terms or conditions of this EULA. Client will pay in full for the Services up to and including the last day on which the Services are provided. Upon any termination, Aura Vision will make all Analytics Data available to Client for electronic retrieval for a period of thirty (30) days, but thereafter Aura Vision may, but is not obligated to, delete stored Analytics Data. All sections of this EULA which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

5 HARDWARE WARRANTIES; RETURNS

- 5.1** Aura Vision represents to the original purchaser of the Hardware Devices that for a period of 5 years from the date of shipment to the location specified on the Order Form, the Hardware Devices will be substantially free of defects in materials and workmanship (the “Hardware Device Warranty”).
- 5.2** Client’s sole and exclusive remedy and Aura Vision’s (and its suppliers’ and licensors’) sole and exclusive liability for a breach of the Hardware Device Warranty will be, in Aura Vision’s sole discretion, to replace the non-conforming Hardware Devices. Replacement may be made with a new or refurbished product or components. If the Hardware Device or a component within it is no longer available, then Aura Vision may replace the Hardware Device with a similar product of similar function. Any Hardware Device that has been replaced under the Hardware Device Warranty will be covered by the terms of the Hardware Device Warranty for the longer of:
- a) 90 days from the date of the delivery; or
 - b) the remainder of the original 5-year Hardware Device Warranty period.

6 WARRANTY AND DISCLAIMER

- 6.1** Aura Vision shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Services in a professional manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Aura Vision or by third-party providers, or because of other causes beyond Aura Vision’s reasonable control, but Aura Vision shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, AURA VISION DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED “AS IS” AND AURA VISION DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.

7 INDEMNITY

- 7.1** Aura Vision shall hold Client harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Aura Vision is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Aura Vision will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service:
- a) not supplied by Aura Vision;
 - b) made in whole or in part in accordance with Client specifications;
 - c) that are modified after delivery by Aura Vision;
 - d) combined with other products, processes or materials where the alleged infringement relates to such combination;
 - e) where Client continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement; or
 - f) where Client's use of the Service is not strictly in accordance with this EULA.
- 7.2** If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Aura Vision to be infringing, Aura Vision may, at its option and expense:
- a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality;
 - b) obtain for Client a license to continue using the Service; or
 - c) if neither of the foregoing is commercially practicable, terminate this EULA and Client's rights hereunder and provide Client a refund of any prepaid, unused fees for the Service.

8 LIMITATION OF LIABILITY

- 8.1** NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, AURA VISION AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS EULA OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY:
- a) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS;
 - b) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES;
 - c) FOR ANY MATTER BEYOND AURA VISION'S REASONABLE CONTROL; OR
 - d) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CLIENT TO AURA VISION FOR THE SERVICES UNDER THIS EULA IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT AURA VISION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9 DATA PROTECTION

- 9.1** Client shall also be responsible for ensuring that it has all the necessary consents, licences and permissions necessary to transfer the Client Data to Aura Vision and allow Aura Vision to use such Client Data for the purposes of the provision of the Services and the Analytics Data to the Client.
- 9.2** If Aura Vision processes any Personal Data (as defined by the General Data Protection Regulation (EU) 2016/679, the Data Protection Act 2018, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (as applicable) and any other relevant local laws relating to the protection of Personal Data, the privacy of individuals and the privacy of electronic communications) on the Client's behalf when performing its obligations under the EULA, the parties record their intention that the Client is the Controller and Aura Vision is the Processor of the Personal Data. Any such data Processing activities by Aura Vision shall be for the purpose of provisioning the Services as set forth by this EULA.

10 JOINT MARKETING

- 10.1** Aura Vision and Client mutually agree in joint marketing efforts related to the Client and the Service such as: press release, blog posts, webinars, event participation or presentations. Any joint marketing materials will require review and approval by both parties prior to release. The parties shall work together in good faith to issue at least one mutually agreed upon press release within 6 months of the Service Validation Date, and Client otherwise agrees to reasonably cooperate with Aura Vision to serve as a reference account upon request. The Client acknowledges that its logo and company name may be used by Aura Vision as part of its marketing materials and online content. Any marketing materials and online content will not make reference to the terms of this EULA save for disclosing the party names.

11 MISCELLANEOUS

- 11.1** If any provision of this EULA is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this EULA will otherwise remain in full force and effect and enforceable. This EULA is not assignable, transferable or sublicensable by Client except with Aura Vision's prior written consent. Aura Vision may transfer and assign any of its rights and obligations under this EULA without consent. This EULA is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this EULA, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. No agency, partnership, joint venture, or employment is created as a result of this EULA and Client does not have any authority of any kind to bind Aura Vision in any respect whatsoever. In any action or proceeding to enforce rights under this EULA, the prevailing party will be entitled to recover costs and attorneys' fees. All notices under this EULA will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This EULA shall be governed by the laws of the courts of England and Wales without regard to its conflict of laws provisions.



Business



Business