

## **1. INTRODUCTION.**

These terms apply to the sale by NextiraOne of telecommunications Equipment and / or Services.

## **2. DEFINITIONS**

“Contract” means a contract documented by an Order which has been accepted by NextiraOne, subject to and governed by these Terms.

“Customer” means the party purchasing Equipment or Services from NextiraOne under a Contract whose name appears on the Order.

“Delivery” occurs when Equipment is unloaded at a Site.

“Equipment” means an item or items of telecommunications equipment and / or software either supplied by NextiraOne to the Customer under a Contract or covered by Support.

“NextiraOne” means NextiraOne UK Limited.

“Order” means an order from the Customer for Equipment and/or Services which incorporates or refers to or is intended to be performed in accordance with these Terms.

“Site” means any premises or site where Equipment is to be delivered and/or Services are to be performed.

“Services” means any or all of the services to be performed by NextiraOne under a Contract.

“Support” or “Support Services” mean Services to repair Equipment faults reported by the Customer or detected by remote monitoring and “Supported Equipment” means Equipment which is covered by the Support Services.

“Support Plan” means a Support Services plan offered by NextiraOne for purchase by customers from time to time, details of which appear on NextiraOne’s website.

“Terms” means these NextiraOne terms and conditions of sale.

## **3. PROVISION OF EQUIPMENT AND SERVICES**

3.1 NextiraOne agrees to provide to the Customer and the Customer agrees to purchase Equipment and / or Services as agreed in a Contract.

3.2 Before a Contract is formed for the supply of any Equipment and / or Services, an Order shall be signed by the Customer and forwarded to NextiraOne. The Order may be placed on the Customer’s or NextiraOne’s order form. The parties acknowledge that an Order set out in a document issued by the Customer is prepared for the Customer’s administrative purposes only and that these Terms shall apply to any Order accepted by NextiraOne. All terms, conditions and other statements on any order form or similar document issued by the Customer are expressly excluded from forming any part of a Contract, unless otherwise expressly agreed in writing by NextiraOne.

3.3 NextiraOne may accept or reject an Order at its discretion. If NextiraOne accepts the Order it shall become a Contract which incorporates these Terms.

3.4 Each Contract shall be governed solely by these Terms and by any special terms and conditions which appear on the face of an Order and which have been separately negotiated and agreed in writing between the parties; if there is any conflict between them, these Terms will prevail over any terms appearing on the face of the Order. All other terms and conditions are excluded.

3.5 The parties agree that any NextiraOne document entitled “Statement of Work” which is referred to in a Contract is the definitive statement of any Services to be supplied under the Contract and supersedes any previous understanding between the parties on this point. The parties agree that any Equipment stated on an Order accepted by NextiraOne is the definitive statement of any Equipment to be supplied under a Contract and supersedes any previous understanding between the parties on this point.

## **4. ACCEPTANCE.**

4.1 If NextiraOne installs Equipment, it will test the Equipment in accordance with the manufacturer’s diagnostic and readiness test specifications. Acceptance is deemed to occur:

- when the Equipment has been connected to the network, activated and operated to provide its main functions except for minor variances in performance that do not materially affect those main functions; or
- if the Customer puts the Equipment into commercial use.

If Equipment is installed in phases, NextiraOne may carry out acceptance testing for each phase.

4.2 If NextiraOne agrees to delay Delivery or installation of Equipment at the request of the Customer or if Delivery or installation is delayed because of a breach of these Terms by the Customer, acceptance shall be deemed to have occurred 14 days after NextiraOne notifies the Customer that the Equipment is ready for Delivery.

4.3 If Equipment is sold but not installed by NextiraOne, acceptance is deemed to occur upon Delivery.

4.4 If during testing any item of Equipment is found to be defective, NextiraOne shall at its discretion and within a reasonable time either rectify the defect or replace the item with a new item and the Equipment shall be re-tested.

4.5 NextiraOne will not accept responsibility for any claims for shortages, discrepancies or damage to Equipment unless the Customer notifies NextiraOne in writing as soon as the problem should have been apparent and at the latest within 48 hours of Delivery.

## **5. RISK OF LOSS AND TITLE.**

5.1 The Customer assumes the risk of loss or damage to Equipment from the time of Delivery. With effect from Delivery, the Customer shall maintain insurance for the full insurable value of Equipment until title passes to the Customer in accordance with clause 5.2.

5.2 Title shall pass to the Customer upon full payment of all sums due for Equipment and any associated installation Services.

## **6. PRICE AND PAYMENT TERMS.**

6.1 Unless the Contract states otherwise, prices quoted by NextiraOne are in UK pounds sterling and are exclusive of VAT and any other sales taxes, which the Customer agrees to pay. Where NextiraOne has quoted a price based on an exchange rate which has altered by more than 2% by the time an Order is received, it reserves the right to re-quote.

6.2 The Customer acknowledges its responsibility to disclose all relevant information to enable NextiraOne to calculate its charges accurately. The Customer agrees to pay for additional work required which NextiraOne could not reasonably have foreseen on the basis of the information provided to it by the Customer.

6.3 Unless the Contract states otherwise, invoicing will be as follows. For the sale of Equipment, the price will be invoiced on Delivery. For the provision of Support Services, the price will be invoiced annually in advance. For all other Services the price will be invoiced monthly in arrears as the Services are performed. If NextiraOne is selling and installing Equipment, 20% of the total price is invoiced on order acceptance, 60% on delivery and the remaining 20% on acceptance.

6.4 Invoices shall be paid by the Customer within 30 days from the date of the invoice. If NextiraOne does not receive payment within 30 days it shall be entitled to charge daily interest upon the outstanding amount at the rate of 1% over the Bank of England base rate until NextiraOne receives payment in full.

6.5 All payments shall be made by the Customer in UK pounds sterling by transfer to such bank account as NextiraOne may from time to time notify.

6.6 NextiraOne shall be entitled to charge the Customer for all costs incurred and for any loss of anticipated profit if the Customer cancels or purports to cancel its Order in whole or in part after the Order has been accepted by NextiraOne or if the Customer prevents performance of a Contract or if the Customer terminates or purports to terminate a Contract in breach of these Terms or any other terms of the Contract. The Customer acknowledges these costs and losses may amount to the full purchase price for Equipment, as NextiraOne may be unable to cancel its order or sell the Equipment. The Customer further acknowledges these costs and losses may be very considerable for cancelled Services, as NextiraOne may have already employed people to perform the Services and / or purchased all spares or equipment for the duration of the Contract.

6.7 NextiraOne may increase its charges annually for any Services performed on an ongoing basis by an amount which does not exceed any increase in the UK general index of retail prices.

## **7. CUSTOMER RESPONSIBILITIES**

7.1 The Customer shall provide NextiraOne with all information relevant to delivering the Equipment or performing the Services, including but not limited to floor plans and utility diagrams, details of equipment, wiring or conditions that might affect or be affected by the Services, and details of any hazardous or potentially hazardous conditions.

7.2 The Customer shall prepare the Site for the installation of Equipment, for example removing existing equipment or cable as necessary, and making available secure storage space for equipment, spare parts and tools as reasonably required by NextiraOne. The Customer agrees to allow NextiraOne to deliver and / or install the Equipment as soon as NextiraOne is ready to do so.

7.3 The Customer shall provide facilities as reasonably required by NextiraOne to provide the Services, including but not limited to ducting, conduit, structural borings for cable and conductors, and electrical service with suitable terminals and power surge protection devices and shall designate refuse deposit points close to any Equipment and remove any waste placed there.

7.4 The Customer shall arrange access to any Site as reasonably required by NextiraOne and provide safe and suitable conditions to allow NextiraOne to perform the Services. The Customer agrees to ensure that all Sites comply with all relevant laws and regulations.

7.5 The Customer shall procure as required any permission or services of third parties in respect of interfacing equipment or software and allow NextiraOne, at the Customer's expense, to make reasonable service requests on third parties for Equipment interconnection, including obtaining telephone service for testing where necessary.

7.6 The Customer shall co-operate with and assist NextiraOne as reasonably required in connection with the Services, including but not limited to making available at all reasonable times either in person or by telephone somebody with appropriate knowledge of the Equipment and Site with authority to act on behalf of the Customer, replying to any request for any information, approval or decision without delay.

7.7 The Customer shall maintain the Equipment and its environment in accordance with any manufacturer specifications and tolerances.

7.8 The Customer shall select, implement and maintain security features for defence against unauthorised Equipment use and pay all telecommunications charges incurred through use or misuse of the Equipment.

7.9 The Customer shall immediately notify NextiraOne of any inability or anticipated delay in meeting any obligations set out in this clause.

7.10 The Customer agrees to ensure performance of its obligations in this clause 7 at its own cost and without delay. If the Customer fails to ensure that any of its obligations under this clause 7 or these Terms is met without delay, it shall defend and hold harmless NextiraOne from any associated claims, damages or liabilities and shall pay, at NextiraOne's current rates, for any resulting reasonable costs and expenses incurred by NextiraOne.

## **8. SAFETY, SECURITY AND PERSONAL CONDUCT.**

8.1 The Customer agrees to ensure that NextiraOne's employees, agents and sub-contractors are not exposed to anything which might have a detrimental effect on their health, safety or welfare. If any potential hazards exist at any Site which could have such an effect, the Customer shall immediately advise NextiraOne, confirmed in writing afterwards, and offer appropriate training and safeguards to ensure safe working conditions. Any breach of this clause 8.1 shall be a material breach of these Terms.

8.2 NextiraOne agrees to ensure that its employees, agents and sub-contractors attending a Site comply with all reasonable Customer policies and instructions on health and safety, security and personal conduct.

8.3 Should there be a breach of clause 8.2, the Customer shall be entitled to ban the relevant person from the Site and if this occurs, NextiraOne agrees to provide a suitable replacement as soon as reasonably practicable.

## **9. SUPPORT SERVICES: GENERAL**

9.1 The objective of the Support Services is to maintain Supported Equipment in good operating condition in accordance with the manufacturer's specifications, based on normal use by the Customer. The Customer agrees to pay NextiraOne at its standard rates for work it requests NextiraOne to perform which did not result from normal use of the Equipment.

9.2 Any Support Services provided shall be in accordance with the Support Plan chosen by the Customer.

9.3 Where NextiraOne is installing Equipment which is to be covered by Support, NextiraOne shall provide and the Customer agrees to pay for the Support Plan known as Support Assure with effect from the date of Delivery (or the date that Delivery would have occurred if Delivery has been delayed by or at the request of the Customer) until the date that the Equipment is deemed to be accepted in accordance with clause 4. After this date, NextiraOne shall provide and the Customer agrees to pay for the Support Plan chosen by the Customer.

9.4 Where NextiraOne either did not deliver, or did not install or did not support any Equipment immediately before the Support Services begin, it reserves the right to undertake a pre-maintenance inspection to determine whether any work is required to bring the Equipment up to the manufacturer's specification. NextiraOne reserves the right to charge the Customer at its standard rates for the inspection and any necessary work.

9.5 NextiraOne has no obligation to provide Support for software releases which are not supported by the manufacturer.

9.6 NextiraOne shall have the right to inspect all equipment and software which is connected to Supported Equipment as reasonably required for the purpose of checking the causes of faults in Supported Equipment.

9.7 Any parts fitted to the Equipment under the Support Service shall upon fitting become the property of the Customer. Any parts that have been replaced by NextiraOne shall upon replacement become the property of NextiraOne. The parties warrant that they have good title to pass on. If the Equipment is leased or charged, the Customer warrants that it has obtained all necessary consents to part with the possession of, and give good title to, the replaced parts.

## **10. SUPPORT SERVICES: NEXTIRAONE OBLIGATIONS**

10.1 NextiraOne shall use reasonable endeavours to ensure that it complies with any NextiraOne obligations set out in these Terms and the relevant Support Plan details.

10.2 NextiraOne may, depending on the Support Plan purchased attempt to repair, by remote technical support, faults reported by the Customer or diagnosed remotely; if this does not resolve the problem, NextiraOne shall dispatch an engineer to fix the faulty item and if an item needs replacing, de-install the faulty item and install a replacement. Replacement parts may be new or re-conditioned to be the functional equivalent of the original.

10.3 Any target response times start from the logging by NextiraOne of a service ticket in response to the Customer's request for assistance.

## **11. SUPPORT SERVICES: CUSTOMER OBLIGATIONS.**

11.1 The Customer shall use reasonable endeavours to ensure that it complies with any Customer obligations set out in these Terms and the relevant Support Plan details.

11.2 If the Customer is required to report faults in Supported Equipment to NextiraOne, it shall make reasonable attempts to fix any fault itself and if these fail it shall ensure that the fault is reported to the NextiraOne Technical Assistance Centre as soon as possible. It shall also ensure that a suitably competent person is available either in person or by telephone to demonstrate the fault and verify its satisfactory resolution. Where agreed with NextiraOne, the Customer shall provide the relevant network and equipment to allow remote diagnostics.

11.3 Where NextiraOne is maintaining software on the Customer's server as part of the Support Service, the Customer agrees to maintain the hardware and operating system software at its expense within the specifications and tolerances specified by the relevant manufacturer. The Customer shall promptly forward to NextiraOne all information regarding updates, patches or hot fixes to hardware and/or software operating systems prior to implementation, for review and determination of compatibility with the application software for server-based products.

11.4 The Customer agrees to ensure adequate back-up of data and restoration of data which might otherwise be lost, for example when Equipment is repaired.

11.5 The Customer shall not modify, enhance, repair, disassemble, add new equipment to or move any Supported Equipment without NextiraOne's prior written consent, which will not be unreasonably refused: if NextiraOne grants consent, the Customer agrees to pay NextiraOne's reasonable extra charges to reflect any resulting additional work for NextiraOne.

11.6 The Customer agrees to maintain and supply to NextiraOne a database of Supported Equipment showing the type of equipment, the model number, the serial number, the location, and any changes.

11.7 Where NextiraOne is installing and / or maintaining Equipment that relies on communication over the Customer's network, the Customer shall ensure that the infrastructure is maintained to provide acceptable communication levels.

## **12. WARRANTY AND SUPPORT SERVICE EXCLUSIONS.**

12.1 The scope of Services performed under any warranty or under the Support Service does not include any repairs or any work made necessary by any of the following:

- events beyond the reasonable control of the parties of the type referred to in clause 13;
- failure to follow operational, maintenance or environmental requirements described in the manufacturer's manuals or product bulletins, or in NextiraOne manuals and other documentation provided to the Customer;
- failure of consumable items such as but not limited to batteries;
- modifications, enhancements or repairs to, disassembly of or moving Equipment;
- abnormal use of the Equipment, such as but not limited to mishandling, abuse or accidental damage;
- relocation of Equipment without NextiraOne's written consent (other than telephone handsets located in accordance with the manufacturer's specifications);
- changes required by any telephone company, utility company or other transmission provider;
- electrical work external to the Equipment;
- service which is impractical for NextiraOne to render because of Equipment alterations or its connection to other devices, or because of alterations to operating systems;
- systems engineering services, programming, reconfiguration or reprogramming of equipment, or operational procedures of any sort; or
- service calls where either no problem is found or any problem is unrelated to the Equipment.

12.2 NextiraOne shall have no obligation to undertake any repairs or work made necessary by any of the events set out in clause 12.1 but may at the Customer's request, perform the work or repairs at NextiraOne's then current time and materials rates.

12.3 NextiraOne reserves the right to cancel any or all of its Support obligations by serving three months' notice on the Customer if it determines that it is unable on commercially reasonable terms either to continue to provide the Support Service, or to obtain replacement parts for the Supported Equipment or to maintain any relevant software. If NextiraOne does cancel all or part of the Support Service, it shall reimburse the Customer a pro-rated refund of sums paid.

## **13. EVENTS BEYOND THE CONTROL OF THE PARTIES.**

13.1 Neither party shall be responsible for a delay or failure to perform an obligation under a Contract, other than a delay in making a due payment, if caused by an event beyond the reasonable control of that party, providing that the other party is notified as soon as practicable. Events beyond a party's reasonable control include but are not limited to fire, flood, weather conditions, civil and industrial disturbances, power surges or failure and delays or failures by suppliers, subcontractors, utility companies, telephone companies, internet carriers, telecommunications or other service providers.

13.2 The affected party shall use reasonable endeavours to fulfil its obligations as far as reasonably possible and shall be entitled to an equitable adjustment to any payment or time allowed under the Contract.

## **14. SOFTWARE LICENCE.**

14.1 The Customer acknowledges any software supplied by NextiraOne is owned by the relevant software publisher or Equipment manufacturer and not by NextiraOne: in no circumstances shall title to any software pass to the Customer. The Customer agrees to be bound by the terms of the relevant licence agreement, which may be shown on the web site [www.nextiraone.co.uk](http://www.nextiraone.co.uk), or the relevant manufacturer's or publisher's web site or which may accompany any Equipment or software. Any such licence agreement shall exclusively and independently govern the licensing of the software.

14.2 The parties agree that any failure to comply with the terms of this clause 14 shall be deemed a material breach of the Contract for which injunctive and other equitable relief may be sought.

## **15. TERM, TERMINATION AND SUSPENSION.**

15.1 Each Order agreed subject to these Terms shall form a separate Contract between the parties which shall continue in effect until its expiry or termination. Support and other ongoing Services are provided on an annual basis and, provided that any minimum or initial term agreed with the Customer has elapsed, may be terminated on an anniversary of the commencement of the Services by either party serving not less than three months' notice on the other party.

15.2 Either party may by serving notice terminate a Contract if the other party commits a material breach of the Contract which is incapable of remedy or ceases doing business or commences dissolution, insolvency or liquidation or receivership or any analogous proceedings except for amalgamation or reconstruction.

15.3 Either party may by serving notice terminate a Contract if the other party either fails to remedy a material breach of the Contract which is capable of remedy within twenty eight days of written notice giving appropriate details or fails to make a due payment within fourteen days of written notice giving appropriate details. Either party with a right to terminate under this clause shall have the additional right to suspend all or any of its obligations under the Contract until the breach is remedied.

15.4 If any circumstances exist at any Site which NextiraOne reasonably believes could have a detrimental effect on the health, safety or welfare of NextiraOne's employees, agents or sub-contractors, NextiraOne shall have the additional right to suspend the delivery of all or any Equipment or the performance of all or any Services at any time while those circumstances prevail.

15.5 If a suspension should occur under clause 15.3 or 15.4, the party at fault agrees to pay any reasonable extra costs incurred and the time allowed to the suspending party to perform its obligations shall be equitably adjusted.

15.6 Either party terminating a Contract or suspending its obligations under this clause 15 does so without any further liability on its part under the Contract, other than a liability to pay for Equipment delivered or Services performed and to continue to comply with clause 19 and any other obligations which are of a continuing nature, and without prejudice to any other of its rights or remedies, except as otherwise limited by the Contract.

## **16. WARRANTY.**

16.1 NextiraOne warrants that the Services will be performed by it or on its behalf using reasonable skill and care, unless otherwise expressly provided.

16.2 Any end-user warranties for Equipment from an Equipment manufacturer are passed on to the Customer by NextiraOne, unless stated otherwise in the Contract. If an item of Equipment supplied by NextiraOne develops a fault during the manufacturer's warranty period, NextiraOne shall at its option and expense either return the item to the manufacturer and replace it or repair the item. Replacement parts may be new or reconditioned to be the functional equivalent of the original. The Customer acknowledges that any work on Equipment by non-manufacturer certified technicians may invalidate the manufacturer's warranty.

16.3 Unless otherwise stated in these Terms, the warranties in this clause 16 are in place of all other warranties from NextiraOne. All other warranties, whether express or implied by statute or common law or otherwise, are excluded to the fullest extent permitted by law, including but not limited to warranties of satisfactory quality or fitness for a particular purpose (whether that purpose has been brought to the attention of NextiraOne or not) or any warranty that any Equipment will function uninterrupted or error-free.

16.4 Unless expressly incorporated into these Terms, no statement or representation, whether written, oral or otherwise, shall be relied on by the Customer to the effect that any Equipment or Services will be of satisfactory quality or fit for a particular purpose, whether that purpose has brought to the attention of NextiraOne or not.

16.5 NextiraOne makes no warranty for use of any Equipment as a component in life support devices.

## **17. INDEMNITY.**

Subject to clause 18, each party shall defend, indemnify and hold harmless the other party, and its respective directors, employees, agents and subcontractors from and against any third party claim, suit, action or proceeding alleging bodily injury, death or damage to tangible property to the extent such injury, death or damage is caused by the negligence or wilful misconduct of the indemnifying party, its directors, employees, agents or subcontractors in connection with the performance of services or the unauthorised disclosure or use of any Confidential Information under these Terms, provided that such claim is promptly reported to the indemnifying party in writing.

## **18. LIMITATION OF LIABILITY.**

18.1 Subject to clauses 6.6 and 7.10, neither party shall be liable for:

- any actual or potential commercial loss of any kind, which includes but is not limited to loss of business, profits, revenue, savings or capital, increased costs of operation whether caused by delays or business interruptions or loss of data or messages or otherwise; or
- any damages of any kind resulting from unauthorised, fraudulent or illegal use of or access to any Equipment or any software; or
- any consequential, indirect, incidental, special or exemplary damages, whether mentioned above or otherwise.

18.2 In recognition of the relative risks and rewards of both parties in connection with a Contract, the parties agree to the fullest extent permitted by law to limit the entire liability of either party for claims arising under or in any way related to the Contract to the value of the relevant Contract (or the annual value of the relevant Contract for ongoing Services) or one million pounds sterling, whichever is less.

18.3 Clauses 18.1 and 18.2 apply to all claims whether based upon breach of warranty, breach of contract, negligence, strict liability in tort or any other legal theory, and regardless of whether the possibility of such damage or loss has been pointed out.

18.4 NextiraOne shall be liable for any physical damage it causes to an item of Equipment due to its negligence or wilful misconduct. If this occurs, the Customer's sole remedy shall be limited to either NextiraOne's repair of the item of Equipment, or, if NextiraOne reasonably determines that this is impossible or uneconomic, replacement with comparable Equipment or a pro-rated refund based on depreciation over 5 years.

18.5 Nothing in these Terms or a Contract shall be construed to limit the liability of either party for death or personal injury caused by its own negligence.

18.6 By entering into a contract based on these Terms, the parties acknowledge that this limitation of liability clause has been reviewed and understood and is a material part of these Terms, and that each party has had the opportunity to seek legal advice regarding this clause.

## **19. CONFIDENTIALITY**

19.1 For the purpose of this clause 19, confidential information means any information or data in any form or medium, including but not limited to written, documentary, oral or electronic information, which is marked confidential or which by its nature or the circumstances surrounding its disclosure should reasonably be regarded as confidential, including but not limited to the terms of any Contract.

19.2 Both parties agree to take reasonable care to ensure that any confidential information remains confidential. Both parties agree not to disclose any confidential information during or subsequent to the term of any Contract to any third party, other than where the disclosure is reasonable in the context of general legal requirements or the provision of any Services or Equipment, such as but not limited to disclosure as necessary to any sub-contractor. Confidential information may be disclosed if it:

- is in the public domain without breach of these Terms;
- was developed independently or already known by the disclosing party;
- was, so far as the disclosing party is aware, legitimately disclosed to it on a non-confidential basis without any restriction on its further disclosure; or
- appears that disclosure is legally required, provided the party who made the original disclosure is notified as soon as possible.

19.3 Both parties agree to ensure any third party to whom disclosure is made in accordance with these Terms will comply with the obligations in this clause 19.

## **20. GENERAL.**

20.1 Governing Law. These Terms and all Contracts subject to them shall be governed by English law and both parties agree to be bound by the exclusive jurisdiction of the English Courts.

20.2 Assignment. Neither party may assign or transfer any of its rights or obligations under a Contract without the prior written consent of the other party, which consent shall not be unreasonably withheld. Nothing in this clause or in any Contract shall prevent NextiraOne from using subcontractors to perform any of its obligations.

20.3 Binding Effect. All Contracts subject to these Terms shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.

20.4 Third party rights. Nothing in these Terms, expressed or implied, shall confer any right or remedy on any person other than the parties.

20.5 Counterparts. A Contract may be executed in one or more counterparts, each of which shall be deemed an original, but which together shall constitute a single agreement. Either party may rely on a faxed authorised signature from the other party to bind that other party.

20.6 Amendment and waiver. These Terms or any other provision of a Contract may be modified or supplemented only by a written document (excluding electronic mail and instant messaging) executed by both parties. A waiver by either party of a breach of these Terms or any other provision of a Contract shall not be construed as a waiver of any subsequent or different breach. The fact that a party has not sought a remedy for non-compliance or breach by the other party shall not be construed as a waiver of any right or remedy.

20.7 Invalid Clauses. If any Court finds any provision of these Terms or any other provision of a Contract to be invalid or unenforceable, the remainder of these Terms and the Contract shall continue in full force and effect as if the provision had not existed.

20.8 Preparation of these Terms. These Terms and any other terms of a Contract have been fully and carefully reviewed and negotiated by the parties, who agree that neither of them shall be deemed to be the author.

20.9 Entire agreement. Each Contract constitutes the entire agreement and understanding between the parties about its subject matter and supersedes all prior agreements and understandings about that subject matter. No usage of trade or course of dealing by or between the parties shall be deemed to constitute any variation or amendment of any Contract or these Terms. Each party acknowledges that in entering into a Contract, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as provided in writing in the Contract.

20.10 Headings. The headings appearing in these Terms have been inserted as a matter of convenience and shall not affect their meaning or interpretation.

20.11 Independent Parties. Nothing in these Terms shall be construed to establish or create an agency, partnership or joint venture relationship between the parties.

20.12 Non-Solicitation. Both parties agree not to directly or indirectly solicit, employ or contract with any employee of the other party who has been associated with a Contract during its term and for one year after its termination or expiry.

20.13 Notices. Notices required by these Terms shall be in writing and shall either be delivered in person or by a postal or courier service which requires the signature of the receiving party. The notice will become effective on delivery. Notices shall be served at the registered office address marked for the attention of the Contracts Manager.