



General Terms & Conditions and Service Level Agreement
August 2018

THIS AGREEMENT is made

BETWEEN:

- (1) **METRONET (UK) LIMITED** a company registered in England and Wales under company number 04975343 and whose registered office is at Turing House, Archway 5, Manchester M15 5RL trading as M247 ("**M247**") and
- (2) The company named in the service order form ("**Customer**")

The Parties wish to enter into this Agreement pursuant to which the Customer will be able to order Internet Services and, subject to the terms of this Agreement, M247 has agreed to provide and maintain (and/or procure the provision and maintenance of) such Internet Services.

Now it is hereby agreed that:

1. Definitions and Interpretations

1.1 In this Agreement, unless the context otherwise requires, the following terms shall have the meanings assigned to them below, namely:

"**Act**" means the Communications Act 2003 and any successor legislation;

"**Acceptable Use Policy**" means the acceptable use policy (as may be amended from time to time) published on M247's website located at <http://www.m247.com>;

"**Acceptance Test Schedule**" means a series of installation and testing procedures to be carried out by M247 on the Internet Services before the COA Certificate is issued and "**Acceptance Tests**" shall be construed accordingly;

"**Access Zone**" means the fibre or radio network connection between the Premises and/or the Site and the M247 Zone

"**Agreement**" means this Agreement, which comprises M247's standard terms and conditions, the Service Level Agreement, the Miscellaneous Charges, the Acceptable Use Policy and the SOF;

"**Annual Rental**" means the annual charges payable by the Customer as set out in the SOF;

"**Associate**" M247 Ltd (company number 04968341) and Venus Business Communications Ltd (company number of 04800517) both having their registered office at Turing House, Archway 5, Manchester M15 5RL;

"**Brexit Trigger Event**" means an adverse impact on M247's ability to perform any part of its obligations under this Agreement and/or an increase in the costs incurred by M247 in performing its obligations under this Agreement;

"**Charges**" means the Annual Rental and other charges payable to M247 pursuant to this Agreement and the SOF;

"**COA Certificate**" means the standard M247 installation Customer order acceptance completion certificate which when signed is conclusive proof that the Acceptance Tests have been successfully completed;

"**Connection**" means an electronic communication circuit or circuits to be supplied by M247 to an agreed Service Demarcation Point for the delivery of Internet Services pursuant to this Agreement. Such Connection shall be supplied as point to point only, or as part of an IP VPN or Ethernet VLAN depending on the Customer requirements identified in the SOF;

"**Connection Commencement Date**" means the date each individual Connection is available for use by the Customer and the relevant COA Certificate is issued;

"**Connection Ready for Service Date**" means the date upon which the individual Connection will be ready for service such date to be confirmed by in the COA Certificate;

"**Consultancy Services**" means the advisory and consultancy services (if any) to be provided by M247 to the Customer under this Agreement, as described in more detail in the SOF (as modified or substituted by M247 from time to time);

"**Customer Data**" means the data processed by the Customer using the Internet Services;

"**Customer Premises Equipment**" means any apparatus, and any software embodied therein, on the Customer's side of the M247 network termination point at any relevant Site and/or the Premises which does not form part of the Equipment (but which may be connected to the Equipment) and is used by the Customer in conjunction with the Equipment in order to obtain or use the Internet Services;

"**Data Controller**" has the same meaning given to the term in the DPA;

"**Data Processor**" has the same meaning given to the term in the DPA;

"**Data Protection Legislation**" means the DPA, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2016, the Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy from time to time including the General Data Protection Regulation (EU) 2016/679;

"**Data Subject**" has the same meaning given to the term in the DPA;



“**DPA**” means the Data Protection Act 2018 and any successor legislation;

“**Default Interest Rate**” means the statutory rate of interest in accordance with the Late Payment of Commercial Debts (Interest) Act 1998;

“**Due Date**” means the due date for payment of an invoice pursuant to clause 13;

“**Emergency**” means any event or circumstance which results or could reasonably be expected to result in a risk of personal injury or death or material damage to property and, without prejudice to the generality of the foregoing, an event or circumstance defined as an Emergency in the Act;

“**Equipment**” means any communication apparatus (as defined in the Act) or other equipment to be installed by or on behalf of M247 pursuant to this Agreement from time to time. Such equipment may include an appropriate switch and/or router to be supplied by M247 to the Customer if indicated as required on the SOF;

“**Force Majeure**” means a circumstance described in clause 16;

“**General Conditions of Entitlement**” means the general conditions of entitlement set by OFCOM in accordance with the Communications Act 2003, as may be amended, modified or replaced from time to time.

“**Group**” in relation to a body corporate, means the body corporate, any other body corporate which is its holding company or subsidiary and any other body corporate which is a subsidiary of that holding company as defined in s1159 Companies Act 2006;

“**Installation Charge**” means the charges payable on installation of the Connection by the Customer as set out in the SOF;

“**Internet Services**” means the communication services supplied to the Customer at an agreed bandwidth which will allow the Customer to pass Internet IP packets over the Connection to the Public Internet, together with any other communication service and/or Consultancy Services set out in the SOF. For the avoidance of doubt the Internet Services or any other service may be provided by M247 and/or an Associate;

“**IP VPN**” means a communications network running over a shared infrastructure which is used to supply Layer 3 IP connectivity between two or more Sites;

“**Law**” means the Act and any other law, statute or regulation, General Conditions of Entitlement, code of conduct (whether or not having the force of law), copyright or other third party rights, obligation in contract or any term of any licence to which M247 or the Customer is from time to time subject;

“**M247 PoP**” means a point of presence on the M247 System where M247 Equipment is sited, excluding the Premises and/or the Site;

“**M247 System**” means the System or systems operated by M247 which also includes, where applicable to any Internet Services provided under this Agreement, any system operated by an Associate;

“**M247 Zone**” means the national IP network that M247 operate in the United Kingdom.

“**Miscellaneous Charges**” means the miscellaneous charges set out in Schedule 2;

“**Minimum Period**” means the relevant duration of this Agreement to provide Internet Services to the Site as set out in the SOF. The Minimum Period shall be no less than 12 months from the Connection Commencement Date;

“**Network Interface Device**” is a network device that serves as the demarcation point between the M247 Zone and the Customer’s internal network, which allows LAN connected computers to connect to outside networks across the M247 Zone.

“**Order Acceptance Form**” means a form sent by the M247 provisioning team which contains confirmation of M247’s acceptance of the SOF;

“**Outage**” means an event or action (not attributable to the act or omission of the Customer or arising at the request of the Customer), which prevents or restricts the passage of electronic communications signals across any Connection;

“**Personal Data**” has the same meaning given to the term in the DPA;

“**Planned Outage**” means an event or action that has been planned when network maintenance or upgrades may be required by M247 from time to time;

“**Parties**” means the Customer and M247;

“**Premises**” means the building or buildings where Equipment is located, and whether or not occupied by the Customer;

“**Processing**” has the same meaning given to the term in the DPA;

“**Processing Details**” the processing details set out in Schedule 4 which sets out the scope, nature and purpose of Processing by M247, the duration of the Processing, the types of Personal Data and the categories of Data Subject;

“**Public Internet Zone**” means that portion of the Public Internet that lies beyond the M247 core Internet routers;

“**RFQ**” means a request for quotation submitted by the Customer to M247;

“**Self Certification Notice**” means a notice issued by M247 which when signed by M247 is conclusive proof of satisfactory installation of the Equipment;

“**Service Fee**” means such sum calculated with reference to M247’s current charging rate and in accordance with clause 9.7 as shall be charged to the Customer in the event of maintenance services provided consequent on an event or events specified in sub-clause 9.6.1; 9.6.2; 9.6.3; which necessitates a callout by a M247 engineer;

“**Service Level Agreement**” means M247’s standard Service Level Agreement from time to time attached as Schedule 1 and any other relevant service levels relating to a specific service set out in the Services Schedule;



“Service Demarcation Point” means an agreed interface on a piece of Equipment prescribed by M247 in a location agreed with the Customer whose purpose is handing over Internet Services from its own network to the Customer’s network.

“Services Schedule” the services schedule containing specific service levels and terms and conditions which relate to services other than the provision of Internet Services, which may include services provided by an Associate and/or third party supplier.

“Site” means the location where a Connection provided under this Agreement starts or terminates as set out as the A End Address and B End Address on the SOF. Where the Customer contracts for the supply of an IP VPN, the term Site shall also include references to all Sites specified on the SOF;

“SOF” means the service order form containing the details of the Internet Services and Connection to be supplied to the Customer, together with any additional SOF submitted by the Customer and accepted by M247;

“Site Occupier” means the owner and/or landlord of a Site;

“Site Wayleave” means a wayleave agreement to be executed by M247 and the Customer and/or the Site Occupier in respect of the relevant Premises and/or the Site, if necessary, for M247 to provide Internet Services under this Agreement;

“Subprocessor” means any person (including any third party and any Associate, but excluding an employee of M247) appointed by or on behalf of M247 or an Associate to process Personal Data on behalf of the Customer in connection with this Agreement;

“System” means an electronic communication system;

“Tail Circuit” means a Connection on an electronic communications network provided by a supplier (other than M247) between a M247 PoP and the Premises and/or the Site over which M247 will supply Internet Services;

“Viruses” means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the programme or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses, harmful or malicious code, and other similar things or devices;

“Working Day” means any day excluding Saturdays, Sundays and the usual bank holidays in England.

1.2 References herein to clauses are to clauses in this Agreement.

1.3 References in this Agreement to the **“Site Occupier”** shall (where applicable) include its respective successors (whether by operation of law or otherwise) and permitted assigns.

1.4 References in this Agreement to **“day”** shall be to a calendar day.

1.5 A reference in this Agreement to a statutory provision will, unless expressly provided otherwise, be interpreted as a reference to such provision as amended, consolidated, replaced or re-enacted.

1.6 In this Agreement unless the context otherwise requires:

1.6.1 Words in the singular include the plural and vice versa; and

1.6.2 Words importing any gender include all genders.

1.7 The headings are for convenience only and do not affect the interpretation of this Agreement.

1.8 References in this Agreement to a **“person”** shall include any person, partnership, firm, company, body corporate or corporation or organisation (as defined in the Companies Act 2006).

1.9 The words and phrases **“other”**, **“including”** and **“in particular”** shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wide construction is possible.

1.10 References to M247 in this Agreement shall include an Associate where such Associate provides any of the Internet Services.

2. Purpose of Agreement

Subject as set out in this Agreement:

2.1 In consideration of the payment of the Charges made by the Customer to M247 and the Customer’s compliance with the terms of this Agreement, M247 shall provide the Customer with the Internet Services and maintenance thereof as set out in this Agreement;

2.2 The Customer shall make the relevant payments to M247, as set out in clauses 12 and 13, and the SOF and any subsequent SOF submitted by the Customer and accepted by M247.

3. Consent to install the Equipment

3.1 The Customer hereby irrevocably gives permission to M247 and its employees, agents or contractors on reasonable notice at such reasonable times to: **(a)** Execute any works on the Premises and/or the relevant Site for, or in connection with, the installation, maintenance, adjustment, repair, alteration, moving, replacement, renewal or removal of the Equipment; **(b)** Keep and operate the Equipment installed on, under or over the Premises and/or the Site; **(c)** Enter the Premises and/or the Site to



inspect any of the Equipment kept on, under or over the Premises and/or the Site or elsewhere for the purpose of providing the Internet Services.

3.2 M247 agrees with the Customer to cause as little disturbance, damage and inconvenience as reasonably possible when exercising any of its rights under this Agreement and to make good (to the reasonable satisfaction of the Customer) as soon as reasonably practicable any damage that M247, its employees, agents or contractors may cause to the Premises and/or the Site.

3.3 The Customer agrees not to do or allow anything to be done to the Premises and/or the Site that may cause damage to, or interfere with, the Equipment or prevent reasonable access to it.

3.4 The Customer warrants that: **(a)** It is the current occupier of the Premises and/or the Site; **(b)** It is either the freeholder of the Premises and/or the Site or is a tenant of it under a lease or licence or other tenancy agreement expiring not before the expiry of the Minimum Period and any subsequent period agreed between the Parties; **(c)** It will not do or allow to be done at the Premises and/or the Site anything which might damage the Equipment in any way and that it will take all steps reasonably necessary to ensure that no one interferes with or tampers with the Equipment; **(d)** If the Customer wants to carry out works to refurbish, demolish or substantially reconstruct all or part of the Premises and/or the Site and requires the Equipment to be removed or relocated or altered it will give M247 as much notice of its proposed works as is reasonably practicable (and in any event no less than six calendar months' prior written notice). Upon receipt of such notice the Parties shall agree to consult with each other in good faith and use all reasonable endeavours to find an alternative site or route for the Equipment as is reasonably acceptable to M247 and as are necessary to allow the Customer to carry out its refurbishment, demolition or reconstruction of the Premises and/or the Site.

3.5 The terms set out in clauses 3.1 to 3.4 (inclusive) shall remain in force and survive this Agreement for a period of 60 Working Days following cancellation or termination of this Agreement. Upon such cancellation or termination, the Customer shall give M247 or its sub-contractors or suppliers all reasonable access to the Premises and/or the Site to remove the Equipment.

3.6 The Customer shall procure and/or continue throughout the term of this Agreement all site related permissions and approvals necessary for M247 to deliver, install and maintain the Equipment for the provision of the Internet Services and Connection.

4. Ordering and Provision of Connection

4.1 If the Customer wishes to order Internet Services it may submit an RFQ to the M247 sales team at pricing@M247.com. The Customer acknowledges that M247 may utilise facilities by, and provision all or any part of the Internet Services from, an Associate.

4.2 If an RFQ is submitted to M247 pursuant to clause 4.1, M247 shall use all reasonable endeavours to respond in writing within 10 Working Days. At M247's sole discretion, a credit check may be conducted against the Customer and a guarantee and indemnity sought from one or more directors of the Customer.

4.3 If the Customer returns a duly completed SOF within 30 Working Days of receipt from M247 the following provisions will apply:

4.3.1 M247 will send the Customer an Order Acceptance Form and where a Site Wayleave is required by the owner and/or the landlord of the Premises and/or the Site the Customer shall use its reasonable endeavours to procure that such parties (including the Customer where required) enter into a Site Wayleave;

4.3.2 On the grant of a Site Wayleave (if applicable) for the Premises and/or the Site and on execution of the Order Acceptance Form by M247 and M247 confirming receipt and acceptance to the Customer by email, the SOF will be deemed to be a binding contract for the provision of the Internet Services in accordance with and subject to the terms of this Agreement. If M247 is not supplying any applicable routers and/or switching equipment it shall be the sole responsibility of the Customer to ensure that they have adequate routing and switching equipment at the Premises and/or the Site for the operation of the Internet Services.

4.3.3 Subject to clauses 14 and 15 below, this Agreement for the provision of the Internet Services and each Connection shall continue for the Minimum Period.

4.4 M247 shall use its reasonable endeavours to meet any dates specified in this Agreement and/or the SOF but for the avoidance of doubt, time shall not be of the essence in this Agreement.

4.5 Subject to the existence of the Site Wayleave (if applicable) M247 shall provide the Customer with the Internet Services and Connection to the Premises and/or the Site and/or between more than one Premises and/or Site (where applicable) in accordance with the terms set out in this Agreement.

4.6 M247 shall provide the Customer with the relevant information to enable the Customer to prepare or procure the preparation of the Premises and/or the Site for delivery and installation of the Equipment and the Customer shall suitably prepare or procure the preparation of the Premises and/or the Site for delivery and installation of the Equipment and comply or procure the compliance in all material respects with M247's reasonable instructions and requirements relating to the



preparation of the Premises and/or the Site. Such instructions shall include confirmation of applicable switching and/or routing equipment which will be required at the Premises and/or the Site for the operation of the Internet Services.

4.7 The Customer shall at its own cost procure the provision to M247 at all times of suitable accommodation, assistance, facilities and environmental conditions for the Equipment (as specified in clause 4.8) and all reasonably necessary electrical and other installations and fittings relating to the Equipment and shall ensure that any necessary preparation is effected before the Equipment is delivered and installed.

4.8 The Customer shall ensure that air conditioning and all other environmental controls in the premises where the Equipment is located are maintained to a satisfactory level so that the Equipment can operate correctly.

4.9 M247 shall deliver the Equipment to the Customer (or as directed by the Customer) and install the Equipment at the Premises and/or the Site. M247 shall use its reasonable endeavours to comply with the Customer's requests in respect of installation but M247's reasonable decision on the routing of cables and wires and the positioning of outlets and other apparatus constituting the Equipment or part thereof shall be final and binding on the Customer.

4.10 M247 will use all reasonable endeavours to provide and install the Equipment and the Parties will test the Equipment at the Premises and/or the Site so that the Connection can be provided on or before the appropriate Connection Ready for Service Date.

4.11 Following the installation of the Equipment, Acceptance Tests shall be carried out by the Parties to ensure that the Internet Services and applicable Connection is ready for use. If the Internet Services and Connection is not ready for use, M247 shall either repair or replace, at its sole option, the Equipment or any part thereof and repeat the Acceptance Tests. All Acceptance Tests shall, if the Customer so requires, be carried out in the presence of a duly authorised representative of the Customer provided the representative is available at such reasonable times as M247 may specify.

4.12 M247 shall on successful completion of the Acceptance Tests present a COA Certificate for signature to the Customer by a duly authorised representative of the Customer. The Customer shall ensure that its duly authorised representative signs the COA Certificate without delay. If in the opinion of M247 the Customer delays in signing the COA Certificate after Internet Services can be measured, M247 shall have the right to issue a Self Certification Notice. The original of the COA Certificate or Self Certification Notice shall be retained by M247 who shall make a copy available to the Customer's representative at the time of delivery.

4.13 M247 shall be entitled to sub-contract the whole or any part of the performance of the Internet Services to any person provided that M247 remains responsible to the Customer for the performance of the Internet Services in accordance with the terms of this Agreement.

5. Service Levels

5.1 M247 shall use its reasonable endeavours to ensure that the Connection is available for use twenty-four (24) hours a day throughout the Minimum Period and any subsequent period agreed between the Parties. M247 shall use its reasonable endeavours to provide the minimum service levels as set out in the Service Level Agreement.

5.2 If the Internet Services are not available as set out in clause 5.1 (other than for a Planned Outage or for a Force Majeure event or as otherwise set out in this Agreement when M247 shall have no liability), M247 shall be liable as set out in the Service Level Agreement in relation either to Internet Services, Tail Circuit or other M247 supplied services which shall be the total of M247's liability hereunder or otherwise for lack of Availability of the Internet Services.

6. Customer's Obligations

6.1 To facilitate the provision of the Internet Services and Connection, the Customer shall use its reasonable efforts to procure, at its own expense, a secure electricity supply of such type and at such points as M247 shall reasonably require for each Connection. No electricity will be supplied by M247 through the Customer's or any third party's electricity cables. The Customer shall also procure the provision of back-up power with sufficient capacity to conform to the stand-by requirement of the relevant British Standards as needed if the Connection, including the provision of access to Emergency services, is required to continue uninterrupted in the event of a power failure in the principal power supply for Equipment at the Premises and/or the Site.

6.2 The Customer will ensure that the location and position of all Equipment complies with all applicable health and safety regulations in force on the date of this Agreement. The Customer shall pay for the relocation of any and all Equipment found to be in breach of any such regulations. Should new legislation or regulations come into force after the commencement of this Agreement which would require any Equipment to be relocated, the Customer will pay such relocation costs.

6.3 The Customer shall comply with the Acceptable Use Policy and shall procure that any other party using the Internet Services shall comply with the Acceptable Use Policy.

6.4 If the Customer wishes, other than for reasons connected to applicable health and safety regulations, to move any part of the Equipment to a different location within the Premises and/or the Site, the Customer shall give the maximum notice reasonably practicable (but not less than three (3) months' notice in writing). On the expiry of such notice and with the consent of M247 (not to be unreasonably withheld or delayed) the Customer shall be entitled (at its own expense) to move any



Equipment to such different location within the Premises and/or the Site. The Customer shall consult with M247 to ensure that any such relocation takes place at a time when the least disruption shall be caused to M247's business.

6.5 The Customer shall supply to M247 any documents, materials, assistance, data or other information (**Input Materials**) required in connection with the Consultancy Services. The Input Materials shall be supplied within sufficient time to enable M247 to perform the Consultancy Services in accordance with this Agreement.

6.6 M247 shall not be liable or deemed to be in breach of contract if the Input Materials are delayed, incomplete or inaccurate and M247 will be entitled to charge the Customer for any additional services necessary as a result.

6.7 Any recommendations or suggestions proposed by M247 in the performance of the Consultancy Services are given in good faith, but the Customer is solely responsible for satisfying itself of the suitability of any ideas, strategies, equipment or products recommended or suggested by M247 for its own particular purposes (notwithstanding that such purposes are known to M247), and all such recommendations and suggestions are acted upon entirely at the Customer's own risk.

7. Equipment

7.1 The Equipment shall remain the property of M247 or its nominee at all times and M247 may modify, substitute, renew or add to the Equipment from time to time at its sole discretion provided that such modifications, substitutions, renewals or additions shall not affect the supply of Internet Services and Connection. Where such modification would impact on a Connection then modifications will be carried out as a Planned Outage.

7.2 The Customer shall be responsible for ensuring at all times the safe keeping and proper use of the Equipment at the Site and/or the Premises and shall be liable for any loss or damage to the Equipment pursuant to clause 7.4. In particular, (but without prejudice to the generality of the foregoing) the Customer covenants with M247:

7.2.1 To comply with all reasonable instructions as M247 may notify to the Customer;

7.2.2 Not to (and to ensure that no other person shall) sell, let, transfer, dispose of, mortgage, charge, modify, repair, service, tamper with, remove or interfere with the Equipment or suffer any distress, seizure of, or execution to be levied against, the Equipment or otherwise do anything prejudicial to M247's rights in the Equipment;

7.2.3 To keep the Equipment at the Premises and/or the Site and stationary at all times;

7.2.4 Not to add to, modify, or in any way interfere with, the Equipment and to keep and maintain the Equipment in good repair and condition;

7.2.5 Notwithstanding clauses 7.2.3 and 7.2.4, in the case of an Emergency, to take whatever steps as are reasonably necessary to safeguard the Equipment and to notify M247 as soon as possible of the circumstances of such Emergency;

7.2.6 Other than in the event of an Emergency not to cause the Equipment to be repaired, serviced or otherwise attended to except by an authorised representative of M247;

7.2.7 Not to do anything or allow to subsist any circumstance, matter or thing, which is likely to damage the Equipment or detract from or impair its performance or operation;

7.2.8 Not to remove, tamper with or obliterate any words or labels on the Equipment or any part thereof and in any event to ensure the Equipment can be identified as belonging to M247 or its supplier;

7.2.9 To permit M247 to inspect or test the Equipment at all reasonable times; and

7.2.10 At the request of M247 to produce evidence to M247 that it has effected and is maintaining suitable insurance in respect of relevant risks in accordance with standard industry practice relating to such Equipment.

7.3 For the purposes of this Agreement the "**point of interconnect**" for Internet interfaces for hand off will be either 10/100 Base T Ethernet, 1000 Base SX/LX or 10Gigabit LAN Phy.

7.4 The Customer shall be liable for any loss or damage whatsoever caused at or beyond the Customer's side of the point of interconnect at the Site and/or the Premises (including but not limited to lightning or electrical damage) to any part of the Equipment within the Site and/or the Premises and the Customer indemnifies M247 against all such loss or damage. The Customer will notify M247 immediately of any such loss or damage.

7.5 The Customer shall maintain insurance of its liabilities under clause 7.4 including for the avoidance of doubt insurance of the Equipment which is located on the Premises. The Customer shall hold any proceeds received from an insurer strictly on trust for M247.

7.6 For the avoidance of doubt the Customer shall not be liable for any loss or damage to the Equipment where such loss or damage occurs before the Service Demarcation Point within the Site and/or the Premises **provided that** if such loss or damage is due to the negligent, malicious or wilful action or inaction of the Customer, its employees or sub-contractors, or by the Customer's breach of this Agreement, the Customer shall be liable to and shall reimburse M247 therefore to the extent of all losses, damages and costs incurred by M247 by such action and/or inaction of the Customer, its employees or subcontractors and/or by such breach of this Agreement by the Customer.

8. Customer's premises equipment

8.1 The Customer shall be responsible for procuring that the Customer's Premises Equipment is programmed, equipped, compatible and connected for the operation of the Internet Services and installation of the Connection in accordance with



M247's reasonable instructions and the specifications contained in the Service Level Agreement. The Customer shall be responsible for procuring the connection of the Customer's Premises Equipment to M247's System.

8.2 The Customer acknowledges that M247 shall be responsible for the repair and maintenance of Customer's Premises Equipment if this is delivered as part of a M247 managed service as specified in the SOF.

8.3 The Customer shall ensure or procure that all other Customer's Premises Equipment that they use complies with all relevant Laws and applicable industry standards for the time being in force. The Customer shall disconnect any Customer's Premises Equipment if such apparatus does not, or ceases to conform to any relevant Law or to any applicable and industry standards for the time being in force. M247 reserves the right to disconnect any Customer's Premises Equipment if the Customer does not fulfil any of its obligations under this clause 8 or, in the reasonable opinion of M247, such apparatus does not comply with any relevant Law or applicable industry standard for the time being in force or may cause the death of or any personal injury to any person, or material damage to property or materially impair the quality of the Internet Services or any electronic communication service provided by means of M247's System.

9. Maintenance

9.1 M247 shall provide such maintenance services for the proper functioning of the Internet Services and, where appropriate, the switching and routing equipment supplied by M247, as are reasonably required to provide the Internet Services in accordance with this Agreement and the Service Level Agreement.

9.2 The Customer shall permit M247 or its agents upon reasonable notice (except in an Emergency, when no notice is required) to enter the Site and/or the Premises for the purpose of monitoring and maintaining the Equipment.

9.3 If the Customer detects any defect or impairment in the operation or performance of the Internet Services and/or applicable Connection, it shall notify M247 of the nature of such defect or impairment. M247 shall respond promptly after such notification and shall make the necessary corrections in accordance with the Service Level Agreement.

9.4 If M247 detects any defect or impairment in the operation or performance of the Equipment, it shall notify the Customer of the nature of such defect or impairment. The Customer shall after such notification comply with its obligations under paragraph 1.3 of the Service Level Agreement and shall make the necessary corrections in accordance with the Service Level Agreement.

9.5 Subject to clause 9.6 below, charges for maintenance are included in the Annual Rental.

9.6 M247 will be entitled to charge the Customer and the Customer will pay a Service Fee at M247's then current reasonable charging rates to the extent that the need for any maintenance results from any one or more of the following:

9.6.1 Misuse or neglect of, or accidental or wilful damage to, the Equipment where such misuse, neglect or damage occurs beyond the point of interconnect in the Premises and/or the Site; or

9.6.2 Failure by the Customer to comply with any of the provisions of this Agreement; or

9.6.3 Fault in, or other problem associated with the Customer's System other than the Connection **PROVIDED THAT** in the case of any event referred to in clause 9.6 M247 shall have given the Customer reasonable written notice of its intention to charge such Service Fee.

9.7 M247 reserves the right to increase the Service Fee on serving not less than one month's written notice to the Customer or by publishing details of the increase in the Service Fee on its website.

9.8 In the event that the Customer prevents or delays the performance of maintenance services as described in this Agreement, M247 shall have the right to charge the Customer all reasonable costs incurred by such delay or prevention.

10. Use of Internet Services and performance of Consultancy Services

10.1 The Customer shall at all times comply with the Acceptable Use Policy and particularly undertakes not to use or permit anyone else to use the Internet Services and Connection:

10.1.1 To send a message or communication which is offensive, abusive, indecent, obscene or menacing; or

10.1.2 To cause annoyance or inconvenience; or

10.1.3 In a manner which is contrary to any applicable Law.

10.2 The Customer shall keep M247 indemnified against all liabilities, claims, damages, losses, proceedings, compensation, costs and expenses arising out of, or in any way connected with, any such use of the Internet Services and Connection by the Customer which infringes the Acceptable Use Policy, provided that M247 shall not compromise, admit or settle any such actions without the prior written consent of the Customer which is not to be unreasonably withheld or delayed.

10.3 If the Customer can prove to M247's reasonable satisfaction that, due to M247's own act or omission, M247 has failed to perform the Consultancy Services in accordance with this Agreement, then M247 may at its option remedy such breach:

10.3.1 by re-executing the relevant part of the Consultancy Services free of charge up to the amount of the Charges received by M247 for the provision of such Consultancy Services (exclusive of any VAT); or

10.3.2 by repaying or crediting to the Customer that part of the Charges paid by the Customer to M247 relating to the provision of the relevant part of the Consultancy Services (exclusive of any VAT),



and any such action shall discharge in full M247's liability to the Customer for such failure to perform the Consultancy Services.

11. Suspension of Internet Services

11.1 Without prejudice to the Parties' other rights and remedies under this Agreement and otherwise at law and subject to clause 11.2, M247 may suspend the performance of its obligations under this Agreement for a period not exceeding six (6) months, on prior written notice to the Customer (such notice not to apply with respect to 11.1.1, 11.1.2 and 11.2) in the event that:

11.1.1 The Customer has failed to pay the Charges in full; or

11.1.2 M247 is entitled to terminate this Agreement in accordance with clause 15; or

11.1.3 M247 is required to suspend such performance in order to comply with any Law or request of any governmental department, emergency services organisation or other competent administrative authority **PROVIDED THAT** if M247 is entitled to suspend this Agreement pursuant to this clause 11.1.3, M247 shall use its reasonable endeavours to minimise such period of suspension.

11.2 In the event of an Emergency, M247 may at its sole discretion interrupt or suspend its obligations hereunder for so long as the Emergency lasts (but no longer) without giving any notice to the Customer but shall notify the Customer as soon as reasonably practicable following the start of the interruption or suspension and shall use its reasonable endeavours to minimise the period of such interruption or suspension.

11.3 Where the suspension is implemented as a consequence of the breach, fault, act or omission of the Customer, the Customer shall reimburse M247 for all reasonable costs and expenses incurred by M247 in connection with the implementation of such suspension (including a re-connection of service fee as set in Schedule 2) and any other service provided by M247 under this Agreement as appropriate.

12. Charges

12.1 In consideration for the provision by M247 of the Internet Services in accordance with this Agreement, the Customer will in respect of the Internet Services and each Connection provided by M247 under this Agreement, pay the Charges.

12.2 Subject to clause 12.5 the Installation Charge and the Annual Rental Charge relating to the Internet Services and Connection shall remain fixed during the relevant Minimum Period.

12.3 Following the expiry of the Minimum Period, M247 shall be entitled to increase the Charges on giving the Customer not less than one (1) month's prior notice. Any revised Charges shall become payable from the date set out in the notice served by M247.

12.4 M247 reserves the right to impose any of the Miscellaneous Charges and reserves the right to increase such Miscellaneous Charges. Any increases shall be published on M247's website.

12.5 M247 shall increase the Charges in April in each year of the Minimum Period and any rollover term (or any replacement month published on M247's website) following the Connection Commencement Date by the same increase in the Retail Prices Index for the previous 12 months announced by the Office for National Statistics (or successor body). For clarification, this clause shall also apply to any electricity charges paid for power supply in respect of any co-location services that form part of the Internet Services.

13. Payment and review

13.1 All Charges payable under this Agreement shall be payable in full by direct debit (without any set off or deduction) within fifteen days of the date of the invoice from M247.

13.2 The Installation Charge on the SOF shall be invoiced by M247 on each relevant Connection Commencement Date **PROVIDED THAT** M247 shall in its absolute discretion have the right to request that the Installation Charge is paid in full prior to the date of the installation.

13.3 All Charges on the SOF shall be invoiced by M247 monthly in advance and the first payment due under this Agreement shall be payable with effect from the Connection Commencement Date.

13.4 All Charges expressed to be payable under this Agreement shall be exclusive of VAT and the Customer shall also pay to M247 such additional amounts of VAT.

13.5 If the Customer shall fail to pay any amount due under this Agreement by the Due Date, M247 shall be entitled to charge to and receive from the Customer interest in respect of any such amount outstanding at the Default Interest Rate (whether before or after judgment) as at the Due Date. Such interest shall be payable from and including the day after the Due Date until and including the date of payment in full. Such interest shall accrue day by day and shall be compounded quarterly.

13.6 In the event that M247 is unable to proceed with the installation of the Equipment and/or Tail Circuit (or any other communication services set out in the SOF) due to acts or omissions of the Customer which prevent or delay installation beyond an agreed Connection Ready for Service Date, then M247 shall have the right to invoice the Customer (which invoice the Customer shall pay within 15 days of the date of the invoice from M247) for all costs incurred in provisioning such Equipment and/or other 3rd party services in readiness for that original Connection Ready for Service Date in accordance with



the terms of clause 13.2 notwithstanding any such delay in actual installation of Equipment and/or Tail Circuit. Costs will be calculated using the Miscellaneous Charges tariffs.

13.7 The Customer agrees not to cancel or amend any direct debit instruction without the consent of M247.

13.8 If specified in the SOF the Customer shall pay a deposit in the amount specified in the SOF. Any deposit shall be payable with the first payment of the Annual Rental.

13.9 M247 may, at its discretion, set off such deposit against any Charges or other amounts owing to M247 from time to time. No interest shall be payable in respect of the deposit. Any deposit remaining at the end of the Minimum Period which is not set off against any Charges shall be returned to the Customer upon return of the Equipment to M247 in satisfactory condition.

13.10 If M247 has set off any deposit under clause 13.9 the Customer shall be required to top up the deposit to the original amount specified in the SOF.

13.11 In the event M247 has provided a credit facility to the Customer, M247 shall have the right in its absolute discretion to withdraw the credit facility on 5 days' prior notice to the Customer.

13.12 M247 reserves the right to refer any unpaid Charges to a debt collection agency to collect payment, interest and any late payment charges on its behalf. The Customer must pay M247's costs payable to the agency, who will add such costs to the total debt outstanding.

14. Duration

14.1 This Agreement shall come into force on the date the Customer signs the SOF and shall continue for the Minimum Period unless it is terminated in accordance with clause 15.

14.2 Either Party shall have the right to terminate this Agreement at the end of the Minimum Period by serving not less than 1 month's prior written notice such notice to expire at the end of the Minimum Period. If the Agreement is not terminated at the end of the Minimum Period it shall continue on a 3 month rolling basis until it is terminated by either Party giving the other Party not less than three (3) months' prior written notice PROVIDED THAT M247 shall have a right to serve a shorter termination notice so that the notice expires at the same time as any termination notice M247 receives from a third party where such third party is providing the Internet Services on behalf of M247.

15. Termination

15.1 Notwithstanding anything to the contrary in this Agreement, either Party (without prejudice to its other rights) shall be entitled to terminate this Agreement forthwith by notice to the other Party if:

15.1.1 Any licence granted to M247 for the provision of the Internet Services and Connection is revoked or otherwise varied for any reason whatsoever and is not immediately replaced by a licence that would permit M247 to continue to provide the Internet Services on the same terms and conditions as set out in this Agreement, in which event M247 shall give the Customer the maximum period of notice of termination practicable in the circumstances; or

15.1.2 Any action or proceedings under insolvency law is taken against the other Party or the other Party makes any arrangement or compromise with its creditors, or ceases to carry on business or suffers any execution or distress over its assets, or shall be the subject of a voluntary or compulsory liquidation (other than for the purpose of reconstruction or amalgamation) or an administrator or administrative receiver is appointed; or

15.1.3 The other Party commits a material breach of any of the provisions of this Agreement (including without limitation, non-payment of the Charges or a breach of the Acceptable Use Policy and/or breach of intellectual property right by the Customer and/or breach of any Law) and, in the case of a material breach of any of the provisions which is capable of remedy, the defaulting party fails to remedy the same within 30 Working Days after receipt of a notice in writing from the other Party giving particulars of the breach and requiring it to be remedied. If the Customer terminates this Agreement it may do so by email to sales@M247.com provided a copy of that notice is also sent to M247 by letter in accordance with clause 24.

15.2 If the Customer and/or the owner and/or the landlord of the Premises, or loss of line of sight to the Equipment, prevents M247 from delivering the Internet Services or the Customer is unable to meet the conditions referred to in the SOF, M247 shall be entitled to terminate this Agreement forthwith by notice to the Customer.

15.3 The right to terminate this Agreement shall not prejudice any other right or remedy of either Party in respect of any breach or any rights, obligations or liabilities accrued prior to termination.

15.4 Upon the termination of this Agreement, the Customer will immediately cease to use the Internet Services and M247 will, subject to M247 having a right of set off for any payment due to M247 repay to the Customer the appropriate proportion of any Charges paid in advance for any period ending after the Customer's liability to pay such Charges ceases PROVIDED THAT M247 shall not be liable to repay any Charges where this Agreement is terminated as a result of the Customer's breach.

15.5 Without prejudice to the Parties' other rights and remedies under this Agreement or otherwise at law, if this Agreement is terminated by M247 in accordance with clauses 15.1.2, 15.1.3 and 15.2 the Customer shall pay M247 all arrears of Charges and sums due and payable to M247 under this Agreement until the expiry of the Minimum Period or the date of termination (if longer).

15.6 The termination or expiry of this Agreement shall not operate so as to terminate any Site Wayleave.



15.7 The obligations of the Parties under this Agreement, which are of a continuing nature and capable of surviving expiry or termination of this Agreement, shall continue in full force and effect notwithstanding such expiry or termination.

16. Force Majeure

16.1 Neither Party (for the purpose of this clause, the “**Affected Party**”) shall be liable for any failure to perform its obligations under this Agreement caused by an act of God, insurrection or civil disorder, terrorism, war or military operations, national or local emergency, acts or omissions of government, highway authority, industrial disputes of any kind (not involving employees of that Affected Party or of sub-contractors working for that Affected Party pursuant to this Agreement), fire, lightning, explosion, subsidence, inclement weather, insolvency of a supplier, acts or omissions of persons or bodies for whom the Affected Party is not responsible (which shall include, but not be limited to, third party communication suppliers to M247) or any other cause whether similar or dissimilar outside the reasonable control of that Affected Party **PROVIDED THAT**, in such circumstances the Affected Party can demonstrate that it has taken all reasonable steps to continue to perform its obligations under this Agreement.

16.2 The Affected Party shall promptly notify the other of the estimated extent and duration of such inability to perform its obligations (for the purposes of this clause 16, a “**Force Majeure Notification**”).

16.3 Upon cessation of the delay or failure resulting from the event of Force Majeure the Affected Party shall notify the other of such cessation.

16.4 If, as a result of the event of Force Majeure, the performance of the Affected Party’s obligations under this Agreement is only partially affected, such Affected Party shall, subject to the provisions of clause 16.5, nevertheless remain liable for the performance of those obligations not affected by the event of Force Majeure.

16.5 In the case of an Affected Party making a Force Majeure Notification then:-

16.5.1 If the delay or failure caused by the event of Force Majeure lasts for a continuous period of three (3) months or less from the date of the Force Majeure Notification (whether or not notice of cessation has been given pursuant to clause 16.3) any obligation outstanding shall be fulfilled by the Affected Party as soon as reasonably possible after the event of Force Majeure has ended, save to the extent that such fulfilment is no longer possible or is not required by the other Party; or

16.5.2 If the delay or failure caused by the event of Force Majeure lasts for more than three (3) months from the date of the Force Majeure Notification and notice of cessation has not been given pursuant to clause 16.3 and such event of Force Majeure prevents the Affected Party from performing such Affected Party’s obligations in whole or in part during that period, the other Party shall be entitled (but not obliged) to terminate this Agreement by giving not less than thirty (30) Working Days’ written notice to the Affected Party on expiry of the said three (3) months period **PROVIDED THAT** such notice shall be deemed not to have been given in the event that notice of cessation of the event of Force Majeure given pursuant to clause 16.3 is received by the other Party prior to the expiry of the thirty (30) Working Days’ written notice.

16.6 If this Agreement is not terminated in accordance with the provisions of clause 16.5.2 then any obligations outstanding shall be fulfilled by the Affected Party as soon as reasonably possible after the event of Force Majeure has ended, save to the extent that such fulfilment is no longer possible or is not required by the other Party.

16.7 Irrespective of the occurrence of any Force Majeure event, the Customer shall continue to pay all Charges due under this Agreement unless and until such time as this Agreement is terminated pursuant to clause 16.5.2.

17. Limitations of Liability

17.1 Nothing herein shall limit either party’s liability for death or personal injury resulting from its own negligence or that of its employees, agents or contractors while acting in the course of their employment.

17.2 Nothing in this Agreement shall exclude or restrict any liability of either party which cannot by law be excluded or restricted.

17.3 Subject to clauses 10.2, 17.1, 17.2, 17.4 and 25.14, the aggregate liability of each Party to the other or any third party (whether in contract, tort, breach of statutory duty or otherwise) arising by reason of, or in connection with, this Agreement shall be limited to one year’s Annual Rental payable under the SOF in the relevant year in which the relevant claim arises, or where such liability arises in the provision of the Consultancy Services, the aggregate liability of M247 shall be limited to M247’s charges for the Consultancy Services.

17.4 Subject to clauses 17.1 and 17.2, neither Party shall be liable to the other or any third party in contract, tort (including liability for negligence), breach of statutory duty or otherwise for any indirect, consequential or special loss howsoever arising. For the purposes of this Agreement, “indirect or consequential loss” includes but is not limited to, loss or corruption of, or damage to, computer software and/or data, wasted management time, loss of revenue, loss of profits, loss of anticipated savings, business or goodwill or loss of turnover.

17.5 The provision of the Internet Services under this Agreement is supplied in accordance with the Service Level Agreement and M247’s sole obligations and liabilities in respect of that provision are as stated in this Agreement and all other innocent or negligent representations (but not fraudulent), conditions, warranties and terms express or implied whether by statute, law or otherwise are hereby excluded to the fullest extent permitted by law.



17.6 Nothing in this Agreement shall limit or exclude the liability of M247 or the Customer for breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

17.7 The terms implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

17.8 This clause 17 shall survive termination of this Agreement.

18. Confidentiality

18.1 In this clause 18, “**Confidential Information**” means all information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by a Party (for the purposes of this clause 18, the “**Disclosing Party**”) to the other Party (for the purposes of this clause 18, the “**Receiving Party**”) whether before or after the date of this Agreement.

18.2 During the term of this Agreement and after the termination or expiration of this Agreement for any reason, the Receiving Party:

18.2.1 May not use Confidential Information for a purpose other than the performance of its obligations under this Agreement; and

18.2.2 May not disclose Confidential Information to a person except with the prior written consent of the Disclosing Party.

18.3 Clause 18.2 does not apply to Confidential Information which:

18.3.1 Is at the date of this Agreement or, at any time after that date, becomes publicly known other than by the Receiving Party’s breach of this Agreement; or

18.3.2 Can be shown by the Receiving Party to the Disclosing Party’s reasonable satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party; or

18.3.3 Is required to be disclosed under any Law or by any stock exchange or other regulatory requirements.

18.4 This clause 18 shall remain in force for five (5) years following the termination or expiration of this Agreement.

19. Publicity

Subject to clause 18 and the Proviso below the Parties may refer to each other by name, trade name and/or trademark on their respective websites and, if applicable, may include a brief description of each other’s business in their respective marketing materials and website. The Parties may also directly or indirectly make public announcements, give releases or statements to the press, television, radio or other media relating to, or connected with, this Agreement (in this clause “**Publicity**”),

PROVIDED THAT the Parties agree that no Publicity shall be given by either Party either directly or indirectly that is negative, derogatory or in any way adverse in nature to the interests of the other Party.

20. Intellectual Property Rights

20.1 Copyright and all other proprietary rights in all documents, drawings and information supplied by M247 to the Customer in connection with this Agreement shall remain vested in M247 or the copyright owner. Such documents, drawings and information are confidential and shall not be copied, disclosed or used (except for the purpose for which they were supplied) without the prior written consent of M247.

20.2 Copyright and all other proprietary rights in all documents, drawings and information supplied by the Customer to M247 in connection with this Agreement shall remain vested in the Customer or the copyright owner. Such documents, drawings and information are confidential and shall not be copied, disclosed or used (except for the purposes for which they were supplied) without the prior written consent of the Customer.

21. Assignment

21.1 Subject to clause 21.2, the Customer shall not assign, novate, delegate or otherwise deal with all or any of its rights or obligations under this Agreement (apart from on a solvent amalgamation or reorganisation) without the prior written agreement of M247 which is not to be unreasonably withheld or delayed. M247 may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Agreement without the consent of the Customer.

21.2 Either Party may assign this Agreement to a member of its Group. If the Customer wishes to transfer its rights and liabilities to another party and M247 is required to enter into a deed of novation the Customer shall pay M247’s reasonable legal costs for approving the deed of novation.

21.3 For the avoidance of doubt, nothing in this clause 21 shall prevent the Customer from using a Connection as part of any service it offers to its customers.

22. Entire Agreement and Variations

22.1 This Agreement and any documents referred to in it constitutes the entire Agreement between the Parties relating to the subject matter of this Agreement and supersedes any previous agreements and all prior representations made between the Parties, whether orally or in writing.



22.2 In the event of any inconsistencies between the contents of any of the following documents, the order of precedence shall (unless expressly stated to the contrary) be as follows: **(i)** the SOF; **(ii)** the main terms and conditions of this Agreement contained in clauses 1 to 26 (inclusive)), **(iii)** the Service Level Agreement **(iv)** the Miscellaneous Charges and **(v)** the Acceptable Use Policy. A variation of this Agreement is valid only if it is in writing and signed on behalf of each Party.

22.3 Each Party agrees that it did not rely on any statement made by the other party before the signature of this Agreement in entering into this Agreement and hereby waives any remedy which but for this clause 22.3 might otherwise be available to it in respect of any untrue statement (whether made innocently or negligently) before the signature of this Agreement.

23. General

23.1 No one other than a party to this Agreement and an Associate shall have any right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

23.2 Failure by either Party at any time to enforce any of the provisions of this Agreement shall not be construed as a waiver by such Party of any such provision or in any way affect the validity of this Agreement or any part hereof.

23.3 No granting of time or other forbearance or indulgence by either Party to the other Party shall in any way release, discharge or otherwise affect the liability of the other Party under this Agreement.

23.4 If any provision of this Agreement shall be prohibited or adjudged by a court of competent jurisdiction to be unlawful, void or unenforceable, such provision shall to the extent required be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances or the validity or enforcement of this Agreement.

23.5 This Agreement may be executed in any number of counterparts each of which when executed and delivered is an original, but all the counterparts together constitute the same document.

23.6 M247 shall be entitled to amend these standard terms and conditions and/or any service specific conditions at any time and will publish such changes online at www.m247.com or at such other URL as is notified to the Customer from time to time. The Agreement shall be amended accordingly with effect from the date of notification online. If the relevant amendment is not required by law and materially affects the Internet Services the Customer shall have the right to terminate this Agreement by serving on M247 not less than 14 Working Days' written notice to terminate this Agreement, provided that such notice is served within the period of 14 Working Days commencing on the date of notification online. In all other cases the Customer will be deemed to have accepted the amendment. For clarification, the service of notice by the Customer under this clause **23.6** shall not constitute or deem to constitute evidence that the relevant change materially affects the Internet Services.

23.7 M247 may for operational reasons introduce service features and/or process changes and/or change the way in which the Internet Services are delivered provided such changes do not have a material adverse effect on the performance or provision of the Internet Services.

23.8 By entering into this Agreement the Customer confirms it has read and understood M247's privacy policy, which can be found at <http://www.m247.com>

23.9 If a Brexit Trigger Event occurs M247 may require the Customer to negotiate in good faith an amendment to this Agreement to alleviate the Brexit Trigger Event. If no such amendment is agreed between the Parties, or it is not possible to make the necessary amendment in order to alleviate the Brexit Trigger Event, M247 may terminate this Agreement by giving the Customer not less than 30 days' written notice. On termination of this Agreement under this clause 23.9 M247 shall have no further liability to provide the Internet Services.

24. Notices

24.1 Any notice, invoice or other document or communication required to be given for the purposes of this Agreement shall be given by post or by e-mail to sales@M247.com. Notice served by e-mail must be confirmed in writing within two (2) days of transmission by the sender to be valid. Any letter sent for the purposes of this Agreement shall, if addressed to M247 and/or Metronet (UK) Limited, be sent to The Company Secretary, Metronet (UK) Limited, Turing House, Archway 5, Manchester M15 5RL and if addressed to the Customer be sent to the Customer's address on the RFQ or to such other address of which notice has previously been notified by the party to be served.

24.2 Notice delivered by hand shall be deemed received when left. Notice given by post shall be deemed as served three days after the date of posting.

25. Data Protection and Customer Data

25.1 The Customer shall own all rights, title and interest in and to the Customer Data and shall have sole responsibility for ensuring the security, legality, reliability, integrity, accuracy and quality of the Customer Data.

25.2 Both Parties shall ensure that they, their employees, agents and Subprocessors shall observe the requirements of the Data Protection Legislation and shall comply with any request made or direction given to the other which is directly due to the requirements of the Data Protection Legislation.



25.3 The Parties agree that for the purposes of the Data Protection Legislation the Customer shall, in respect of all Customer Data which is Personal Data, be the Data Controller and M247 shall be the Data Processor.

25.4 The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer and processing of any Personal Data.

25.5 M247 shall take all measures required pursuant to Article 32 General Data Protection Regulation and also appropriate technical and organisational measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data. M247 shall ensure that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

25.6 M247 shall not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and shall comply with reasonable instructions notified to it in advance by the Customer with respect to the processing of Personal Data.

25.7 M247 shall assist the Customer, at the Customer's cost, with all Data Subject access requests under the Data Protection Legislation which may be received from the Data Subject of any Personal Data forming part of the Customer Data.

25.8 M247 shall notify the Customer without undue delay of and about any actual incident of unlawful destruction or accidental loss or disclosure or access to the Customer Data.

25.9 M247 shall make available to the Customer all information reasonably necessary to demonstrate compliance with its obligations laid down in Article 28 of the General Data Protection Regulation and allow for and contribute to audits, including inspections, conducted by the Customer or another auditor mandated by the Customer. Notwithstanding any rights of the Customer under the Data Protection Legislation to inspect and audit M247's data processing activities, M247 may, in its absolute discretion, use independent third party auditors to verify the adequacy of the security controls that apply to the Internet Services and M247's compliance with its obligations under this Agreement.

25.10 At the written direction of the Customer, M247 shall delete or return to the Customer, at the Customer's cost, all Personal Data on termination of this Agreement unless required by any Law to store the Personal Data.

25.11 The Customer warrants and represents to M247:

- (i) it has the right to licence the processing of the Customer Data that may be processed under this Agreement;
- (ii) the processing of the Customer Data will not infringe the intellectual property rights of any third party;
- (iii) the processing of the Personal Data from time to time has been carried out in accordance with the Data Protection Legislation;
- (iv) it is not aware of any circumstances likely to give rise to breach of any Data Protection Legislation in the future;
- (v) M247 is entitled to process the Personal Data under the terms of this Agreement and such use will comply with all Data Protection Legislation;
- (vi) all Data Subjects have given their valid, informed consent to the processing of such Personal Data.
- (vii) all Customer Data is necessary, accurate and up to date; and
- (viii) it is registered with the relevant data protection authorities (where applicable) to process the Personal Data.

25.12 Without limiting the effect of clause 17 of this Agreement M247 does not give any guarantee that any processed data:

- (i) is or are accurate, complete, reliable, useful, fit for purpose or timely;
- (ii) has or have been tested for use by the Customer or any third party; or
- (iii) will be suitable for or capable of being used by the Customer or any third party.

25.13 The parties agree the following provisions so far as they relate to Subprocessors:

- (i) The Customer authorises M247 to appoint (and permit each Subprocessor to appoint) Subprocessors in accordance with this clause 25.13.
- (ii) M247 may continue to use those Subprocessors already engaged by M247 or an Associate as at the date of this Agreement.
- (iii) M247 shall ensure its agreements with Subprocessors incorporate terms similar to the data protection provisions contained in this clause 25.
- (iv) M247 shall give the Customer as much notice as is reasonably practicable of the appointment of any new Subprocessor including details of the processing to be undertaken. If, within 5 Working Days of receipt of this notice, the Customer notifies M247 in writing of any objections (on reasonable grounds) to the proposed appointment M247 and the Customer shall work together in good faith to make available any commercially reasonable change in the provision of the Internet Services which avoids the use of that Subprocessor.
- (v) If M247 is unable to make the required change to the Internet Services under the provisions of clause 25.13(iv) within 20 Working Days from receipt of the Customer's notice objecting to the proposed appointment of the Subprocessor, the Customer



may terminate this Agreement on 1 month's notice to the extent it relates to the Internet Services which require the use of the proposed Subprocessor.

25.14 Each party shall indemnify the other against all claims, liabilities, costs, expenses, damages and losses and all other reasonable professional costs and expenses suffered or incurred by the indemnified party arising out of, or in connection with, the processing of any Personal Data under this Agreement except to the extent where any such claims arise as a result of the indemnified party's negligence or breach of this clause 25 PROVIDED THAT each party's aggregate liability under this clause 25.14 shall be limited to a maximum of £500,000.

25.15 The Customer acknowledges that:

- (i) M247 is reliant on the Customer for direction as to the extent to which M247 is entitled to use and process Personal Data; and
- (ii) claims against M247 referred to under clause 25.14 include any claim or action brought by a Data Subject arising from any action or omission by M247, to the extent such action or omission resulted directly or indirectly from the Customer's instructions.

25.16 The Processing Details sets out the scope, nature and purpose of Processing by M247, the duration of the Processing, the types of Personal Data and the categories of Data Subject. The Customer agrees to keep M247 updated as to the types of Personal Data and categories of Data Subjects that may be included in the processing of Personal Data on the Customer's behalf.

26 Anti-Bribery Laws

Each Party shall:

26.1 Comply with all laws relating to anti-bribery and anti-corruption including without limitation the Bribery Act 2010 (Anti-Bribery Laws) and shall not do, or omit to do, any act that will cause the other party to be in breach of the Anti-Bribery Laws.

26.2 Not engage in any activity, practice or conduct which would constitute an offence under the Anti-Bribery Laws if such activity, practice or conduct had been carried out in the United Kingdom.

26.3 Promptly report to the other party any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of this Agreement.

26.4 Maintain throughout the term of this Agreement its own anti-bribery policy including without limitation adequate procedures (as defined in section 7(2) Bribery Act 2010) to ensure compliance with the Anti- Bribery Laws and shall enforce such policy and procedures where appropriate.

27. Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with English Law and the Parties hereby irrevocably agree to submit to the exclusive jurisdiction of the English courts.

SCHEDULE 1 Service Level Agreement

1. Fault Management



1.1 Faults may be reported to the M247 Support Desk as set out in Schedule 3 at which time a Fault Reference Number will be issued.

1.2 M247 will in the Notification Period take all reasonable steps to restore the Internet Services in accordance with the terms of this Agreement.

1.3 On notification of a Fault by the Customer to the M247 Support Desk, the Customer shall perform all necessary in-house tests to the Service Demarcation Point as specified by M247 and shall co-operate fully with M247's Support Desk in order to locate any Fault.

1.4 M247 System

1.4.1 From the end of the Notification Period, the Target Time to Repair for a Service Affecting Fault is set out below.

1.4.2 From the end of the Notification Period, the Target Time to Repair for a Non Service Affecting Fault on the M247 Network is 3 Working Days.

1.4.3 If a Target Time to Repair for a service is not specified M247 shall respond within 4 Office Hours from the end of the Notification Period and will use reasonable endeavours to repair the Service Affecting Fault.

1.4.4 If M247 does not meet the Target Time to Repair for a Service Affecting Fault the Customer may claim compensation (at the Customer's sole option) as set out below **PROVIDED THAT** in calculating the hours past the Target Time to Repair there shall be deducted from such calculation any period of time M247 is unable to repair the Service Affecting Fault as a result of the Customer's breach of this Agreement, or a disruption to the power supply to the Equipment, or a disruption to the Internet Services caused by the Customer or the Customer's own equipment, or a failure by the Customer to provide access to the Site and/or the Premises or as a result of an event of Force Majeure **PROVIDED ALWAYS** that M247's total aggregate liability to the Customer under this Service Level Agreement shall not exceed the sum of one year's Annual Rental for the relevant Connection which has the Service Affecting Fault.

1.4.5 Where a Fault occurs outside Office Hours and M247's engineer is required to attend the Premises and/or the Site during darkness or severe inclement weather, the Target Time to Repair may be suspended for such period as it considers reasonably necessary if M247 considers that a health and safety hazard exists. M247 will provide as much notice as is reasonably possible if it intends to postpone the Target Time to Repair.

1.4.6 Where a permanent repair/solution is not possible within the Target Time to Repair, M247 in its absolute discretion may provide a temporary repair/solution to ensure the Internet Services are restored within the Target Time to Repair.

Target time to repair

Service Description	SLA	Target Mean Time to Repair Service Affecting Faults (office hours)	Reasonable endeavours Support	Escalation process
Radio Fixed Wireless Access - Direct Internet Access	99.95%	4		Yes
Radio Fixed Wireless Access - MPLS	99.95%	4		Yes
Radio Fixed Wireless Access - P2P	99.95%	4		Yes
Fibre Ethernet - Direct Internet Access	99.95%	5		Yes
Fibre Ethernet - MPLS	99.95%	5		Yes
Fibre Ethernet - Point-to-Point	99.95%	5		Yes
EFM (DIA-MPLS-P2P)	99.95%	7		Yes
FTTC (DIA-MPLS-P2P)	N/A	N/A	Yes	No
ADSL (DIA-MPLS-P2P)	N/A	N/A	Yes	No
3G Anywhere Connect	N/A	N/A	Yes	No

Office Hours past Target Time to Repair Amount of Compensation

Hours past Target Time to Repair	Amount of Compensation
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2 – 4	One (1) day of the monthly fee paid for each affected Connection
4 – 8	Two (2) days of the monthly fee paid for each affected Connection
8 – 16	Three (3) days of the monthly fee paid for each affected Connection
More than 16	Five (5) days of the monthly fee paid for each affected Connection

1.4.7 Any compensation awarded to the Customer pursuant to this Agreement will be credited by M247 against the next following payment due from the Customer or if no payment is due it will be payable by M247 by cheque to the Customer at the end of the next following Quarter. Any sums recovered by the Customer for a failure by M247 to meet a Target Time to Repair shall be deducted from any compensation due to the Customer for a failure by M247 to meet Internet Services Availability levels as detailed in this Service Level Agreement, if attributable to the same Fault.

1.4.8 For the avoidance of doubt compensation is not payable for a Non Service Affecting Fault or for any service where a Target Time to Repair is not specified.

1.5 Switch/router supplied by M247

1.5.1 From the end of the Notification Period, the Target Time to Repair for a Service Affecting Fault on any switch or router supplied and maintained by M247 under the terms of this Agreement is the Next Working Day.

1.5.2 If M247 does not meet the above Target Time to Repair for the switches/or routers supplied by M247 the Customer may claim compensation (at the Customer's sole option) as set out below **PROVIDED THAT** in calculating the hours past the Target Time to Repair there shall be deducted from such calculation any period of time M247 is unable to repair the Service Affecting Fault as a result of the Customer's breach of this Agreement, or a disruption to the power supply to the Equipment, or a disruption to the Internet Services caused by the Customer or the Customer's own equipment, or a failure by the Customer to provide access to the Site and/or the Premises or as a result of an event of Force Majeure **PROVIDED ALWAYS** that M247's total aggregate liability to the Customer under this Service Level Agreement shall not exceed the sum of one year's Annual Rental for the relevant Connection:

Hours past Target Time to Repair	Amount of Compensation
2 – 4	One (1) day of the monthly fee paid for each affected Connection
4 – 8	Two (2) days of the monthly fee paid for each affected Connection
8 – 16	Three (3) days of the monthly fee paid for each affected Connection
More than 16	Five (5) days of the monthly fee paid for each affected Connection

2. Internet Connectivity Standard Service Level

2.1 Availability



2.1.1 M247 guarantees the Availability of IP traffic across its M247 System to the point of traffic egress to the Public Internet to be at least 99.95%. The calculation used is based on the recorded number of Service Affecting Faults per Connection within the Measurement Period.

2.1.2 If the Availability level on the M247 System falls below 99.95% per annum, the Customer may claim compensation as set out below **PROVIDED THAT** in calculating the Availability level on the M247 System there shall be deducted from such calculation any period of time M247 is unable to provide the Internet Services as a result of a Planned Outage, the Customer's breach of this Agreement, or a disruption to the power supply to the Equipment, or a disruption to the Internet Services caused by the Customer or the Customer's own equipment, or a failure by the Customer to provide access to the Site and/or the Premises or as a result of an event of Force Majeure **PROVIDED ALWAYS THAT** M247's total aggregate liability to the Customer under this Service Level Agreement shall not exceed the sum of one year's Annual Rental for the relevant Connection.

Connection Availability at end of Measurement Period	Amount of Compensation
0.01% - 0.1% below 99.95%	5% of Annual Rental of the affected Connection
0.11% - 0.25% below 99.95%	7.5% of Annual Rental of the affected Connection
More than 0.251% below 99.95%	10% of Annual Rental of the affected Connection

2.1.3 The above compensation is calculated at the end of the Measurement Period and will be credited by M247 against the next following payment due from the Customer or if no payment is due, it will be payable by M247 by cheque to the Customer at the end of the next following Quarter. Compensation payable to the Customer for failure to meet the Target Time to Repair under paragraphs 1.4 and 1.5 above shall be deducted from the above compensation payments if attributable to the same Fault.

2.1.4 In calculating the Availability of each Connection, any Service Affecting Fault attributable to the loss of Internet Services or failure in the operation of switches and/or routers supplied by M247 shall not be taken into account.

2.1.5 For the avoidance of doubt compensation is not payable for a Non Service Affecting Fault or for any service where a Target Time to Repair is not specified.

2.2 Latency

2.2.1 For Latency measurement purposes, M247 divides the network into zones, namely the Access Zone, the M247 Zone (M247's national IP network) and the 3rd zone called the "Public Internet Zone". If the Access Zone is terminated at the Service Demarcation Point with a M247 Network Interface Device then M247 target that the round trip Latency between the Service Demarcation Point and a M247 Network Core Internet Router will be no greater than 30ms. If no such device is provided, then M247 target that the round trip Latency between the M247 Network PoP and a M247 Network Core Internet Router will be no greater than 50ms. If the Latency so identified is greater than the target, the Customer may claim re-imbusement up to 10% of the monthly rental for the relevant Connection, **PROVIDED THAT** in calculating the average round trip Latency there shall be deducted from such calculation any increase in the Latency as a result of the Customer's breach of this Agreement, or a disruption to the power supply to the Equipment, or a disruption to the Internet Services caused by the Customer or the Customer's own equipment, or a failure by the Customer to provide access to the Site and/or the Premises or as a result of an event of Force Majeure **PROVIDED ALWAYS THAT** M247's total aggregate liability to the Customer under this Service Level Agreement shall not exceed the sum of one year's Annual Rental for the relevant Connection.

2.2.2 The Latency between the M247 Network PoP (or the Service Demarcation Point if a Network Interface Device is provided) and the designated Core Internet Router will be monitored and reported to the Customer only if the Customer so requests, and M247 agrees to such monitoring taking place. M247 will agree to such a request once a Quarter, if necessary. The Latency will be calculated by averaging the Latency measurements recorded over a 60 minute period. Any compensation awarded to the Customer pursuant to this Agreement will be credited by M247 against the next following payment due from the



Customer or if no payment is due it will be payable by M247 by cheque to the Customer at the end of the relevant monitoring Quarter.

2.2.3 Latency on access ports below 10Mbps will be targeted for 64 byte frames only.

2.2.4 In respect of a 3rd party circuit, M247 will be liable to the Customer for compensation for Latency to the extent only that a third party supplier is liable to M247.

2.3 Public Internet zone performance

2.3.1 Latency target and Credits

Public Internet Zone “Network Latency” refers to the period of time taken for an IP packet to travel between M247 upstream Tier 1 IP Transit provider’s nominated core internet nodes and back again (also referred to as RTT or Round Trip Time). M247 target average Network Latency between these nominated core nodes in the Public Internet Zone as identified in the table below not to exceed the following thresholds during a calendar month:

Region Description	Target average network latency (during a calendar month)
Intra-Europe	Averaged RTT across all links between - European Core Nodes 50 ms
Europe-US*	Averaged RTT between Europe and the US (the New York PoP) 250 ms

Network Latency in the Public Internet Zone shall be demonstrated by M247’s upstream transit providers based on averaging sample measurements taken during a calendar month. When the target is not met, the Customer shall be entitled to request a credit equal to the pro-rated charges for the affected Internet Services for two (2) days during the calendar month in which the Network Latency target was not achieved.

2.3.2 Packet Loss Target and Credits

M247 target that average packet loss between its nominated core internet nodes in the Public Internet Zone across the identified regions will not exceed the following thresholds during a calendar month:

Region Description	Target average network latency (during a calendar month)
Intra-Europe	Averaged packet loss across all links between Nominated Upstream Provider European core nodes 0.3 %
Europe-US*	Averaged packet loss between Nominated Upstream Provider Europe and the US (New York PoP) 0.3 %

Packet loss shall be determined by the Nominated Upstream Provider based on averaging sample measurements taken during a calendar month. When the target is not met, the Customer shall be entitled to request a credit equal to the charges for the affected IP Service for two (2) days during the calendar month in which the packet loss target was not achieved.

2.4 Changes in Bandwidth

2.4.1 Subject to paragraph 2.4.5 the Customer may submit to M247 by email, a request for M247 to increase or decrease the bandwidth of any particular Connection (the “Capacity Change Request”).

2.4.2 M247 will acknowledge the Capacity Change Request and confirm whether the bandwidth capacity is available to execute the Capacity Change Request. M247 will, subject to the capacity limits of any associated Tail Circuit, arrange for the appropriate increase or decrease in capacity to the Customer’s Connection.

2.4.3 The target response time to vary the bandwidth is 24 hours from the M247 acknowledgement being sent to the Customer.

2.4.4 The Customer’s invoice reflecting the change in bandwidth will be incorporated in the next invoice to be sent to the Customer following the relevant bandwidth change. The minimum duration of any Capacity Change Request will be one calendar month from the date of the change in bandwidth being effected.

2.4.5 The Customer may not request a decrease of bandwidth below the Customer’s Initial Capacity Order.



2.4.6 For the avoidance of doubt compensation is not payable if M247 does not meet the target time to vary the bandwidth set out in paragraph 2.4.3.

3. Service Level for circuits connecting the Premises and/or Site to the M247 Network

3.1 M247 target the Availability of a Connection it provides as part of the Internet Services from the Service Demarcation Point to the Public Internet to be at least 99.95%. The calculation used is based on the recorded number and duration of Service Affecting Faults per Connection within the Measurement Period.

3.2 If the performance level of the Internet Services delivered to the Service Demarcation Point falls below the relevant supplier's quoted % availability per annum, the Customer may claim compensation set out below **PROVIDED THAT** in calculating the Availability of a Connection there shall be deducted from such calculation if the Availability is disrupted as a result of a Planned Outage, the Customer's breach of this Agreement, or a disruption to the power supply to the Equipment, or a disruption to the Internet Services caused by the Customer or the Customer's own equipment, or a failure by the Customer to provide access to the Site and/or the Premises or as a result of an event of Force Majeure **PROVIDED ALWAYS THAT** M247's total aggregate liability to the Customer under this Service Level Agreement shall not exceed the sum of one year's Annual Rental for the relevant Connection.

3.3 In calculating the Availability of each Connection, any Service Affecting Fault attributable to the loss of service or failure in the operation of switches and/or routers supplied by M247 shall not be taken into account.

3.4 The above compensation is calculated at the end of the Measurement Period and will be credited by M247 against the next following payment due from the Customer or if no payment is due, it will be payable by M247 by cheque to the Customer at the end of the next following Quarter. Compensation payable to the Customer for failure to meet Target Time to Repair shall be deducted from the above compensation payments if attributable to the same Fault.

3.5 For the avoidance of doubt compensation is not payable for a Non Service Affecting Fault or for any service where a Target Time to Repair is not specified.

Connection Availability at end of Measurement Period	Amount of Compensation
0.01%-0.09% below quoted availability	5% of annual rental of the affected Connection
0.1%-0.34% below quoted availability	7.5% of annual rental of the affected Connection
0.35% or more below quoted availability	10% of annual rental of the affected Connection

4. Tail Circuits

4.1 M247's liability for Target Time to Repair, circuit Availability, and Latency in respect of a 3rd party Tail Circuit will at no time better the published contractual liability of the third party supplier of such Tail Circuit.

4.2 Following payment of compensation to M247 by the third party supplier, M247 will credit the Customer with the relevant compensation against the next following payment due from the Customer, or, if no further payments are due from the Customer, M247 will pay compensation by cheque to the Customer at the end of the next following Quarter.

5. Outages/Re-routing

5.1 In maintaining the Internet Services, M247 may with reasonable notice, request a Planned Outage or re-routing of the Internet Services. Wherever reasonably possible M247 will notify the Customer of the Planned Outage or re-routing at least 20 Working Days in advance and will co-operate with the Customer as to timing of the Planned Outage or re-routing. However, if M247 and the Customer cannot agree the timing of the Planned Outage and/or re-routing, then the decision by M247 shall be final. When notice of a Planned Outage and/or re-routing has been given to the Customer, the Customer will not be entitled to any compensation and lack of Availability will not be counted in any Measurement Period.

5.2 If there is an Outage and/or re-routing that has not been previously notified to the Customer, this will be regarded as a Fault.

6. Customer Responsible Faults

M247 is not responsible for any Fault identified as attributable to the Premises, the Site, the Customer's equipment, a breach of this Agreement by the Customer, a disruption in the Customer's power supplies or the action or inaction of the Customer's employees and/or agents or a failure of the Customer to provide access to the Site and/or the Premises. In such event M247 will quote its terms and conditions (including price) for any remedial work necessary for M247 to fulfil its obligations under this Agreement but the provisions relating to Target Time to Repair shall not apply and the lack of Availability will not be counted in



any Measurement Period. In the event of responsibility being the subject of dispute between M247 and the Customer then the decision of M247 in this regard shall prevail.

7. Third Party Attributable Faults

If a Fault is identified as being attributable to a third party (i.e. neither the Customer nor M247), including loss of line of sight to the Equipment, the lack of Availability will not be counted in any Measurement Period. In such event M247 will use all reasonable endeavours to restore the Internet Services within the Target Time to Repair but will not be liable to pay the Customer compensation as a result of any Fault attributable to a third party.

8. Cancellation of Service

8.1 If the Customer cancels the order set out in the SOF prior to the Connection Ready for Service Date the Customer shall upon demand immediately pay to M247 the following; **(i)** all third party costs directly incurred in consequence of cancellation by the Customer; and **(ii)** the relevant Miscellaneous Charges listed in Schedule 2. For clarification, cancellation of the order is not permitted after the Customer has been given a Connection Ready for Service Date and/or the Connection has been delivered.

8.2 Where an Installation Charge was not payable or it was discounted, M247 may at its sole discretion claim from the Customer reasonable costs (including but without limitation all third party costs) incurred as a result of such cancellation and the Customer shall become liable for payment of such costs forthwith. Where an Installation Charge was discounted the amounts claimed under this paragraph 8.2 shall be in addition to any sums claimed under paragraph 8.1.

8.3 The above amounts are payable in addition to any termination payments due under this Agreement.

8.4 Notice of cancellation must be given in accordance with clause 24.1.

9. Modification of the Internet Services

9.1 If the Customer significantly modifies the order set out in the SOF (e.g. changes an address, point of presence or network presentation) prior to the Connection Ready for Service Date the Customer shall be liable to pay, in addition to the Installation Charge, the relevant Miscellaneous Charges set out in Schedule 2.

9.2 Where an Installation Charge was not payable or it was discounted, M247 may at its sole discretion claim reasonable costs incurred as a result of the modification of the Internet Services and the Customer shall become liable for payment of such costs forthwith. Where an Installation Charge was discounted the amounts claimed under this paragraph 9.2 shall be in addition to any sums claimed under paragraph 9.1.

9.3 Where the Customer modifies the order set out in the SOF, M247 will present the Customer with a revised installation charge ("revised installation charge").

9.4 If such revised installation charge is LESS than the Installation Charge, the amount due under this paragraph 9 will be credited by M247 against the revised installation charge.

9.5 If such revised installation charge is MORE than the Installation Charge, the amount due under this paragraph 9 will be added by M247 to the revised installation charge and shall be payable by the Customer in accordance with clause 12 of this Agreement.

9.6 If the Customer modifies the order set out in the SOF by requesting a "Move and Change" for either the "A" end location and/or address and/or a "B" end location and/or address of a Connection and/or an increase/decrease in bandwidth for a Connection already installed by M247, the Customer shall be liable to pay all relevant costs incurred by the relevant Move and Change. This paragraph shall apply to all Internet Services provided by M247 under the terms of this Agreement.

10. Escalation

In the event of M247's normal point of contact (nominated and/or as may be amended from time to time) not being able to respond satisfactorily the following escalation procedures should be used.

Any requests from either Party for the escalation procedure(s) to be implemented should be initiated through the relevant Network Operations Personnel identified in the table below or as notified from time to time.

Level	M247 Contacts	Escalation
1	Support Desk	2 hours after initial fault is reported
2	Support Desk Team Leader	1 hour after level 1 escalation
3	Technical Support Manager	3 hours after level 1 escalation
4	Services	5 hours after



	Director	level 1 escalation
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M247 operates a personnel roster system for escalation purposes and provides a series of Duty Officers for levels 1 to 3. Accordingly, the dedicated telephone number for Duty Officers is set out in Schedule 3.

11. Claims Procedures

Fault Handling: All claims for compensation under these terms of this Agreement must be submitted to the M247 Account Executive within 30 days of the date of the Fault Reference Number.

Internet Services Availability: All claims must be submitted to the M247 Account Executive within 30 days from the end of the Measurement Period.

12. Service Level Agreement definitions

In this Service Level Agreement unless listed below all words and phrases shall have the same meaning as defined in clause 1 of this Agreement. The following terms shall have the following meanings:

- “**Actual Delivery Date**” the actual date on which M247 provides the Connection tested and ready to use;
- “**Availability**” the time for which the Internet Services and a Connection is available. A Connection shall be deemed unavailable if it is completely interrupted for greater than 30 consecutive seconds;
- “**Core Internet Router**” is that router (or routers) in the M247 Network that (together) form the gateway between the M247 Network and the Public Internet. The designation of such routers may change from time to time.
- “**Fault**” a Service Affecting Fault and/or a Non Service Affecting Fault;
- “**Fault Reference Number**” the unique number issued when logging a Fault with M247’s Support Desk;
- “**Initial Capacity Order**” the initial capacity requested by the Customer for the Minimum Term as stated in the SOF;
- “**Latency**” the amount of time elapsed or the delay between receiving and transmitting a packet across the M247 Network.
- “**Measurement Period**” periods of twelve (12) calendar months, the first being calculated from the Actual Delivery Date;
- “**M247 Network**” the collection of M247 Network PoPs, network equipment and transmission facilities used to interconnect the M247 Network PoPs as may be amended or re-engineered from time to time.
- “**M247 Network PoP**” a point of presence on the M247 Network where M247 equipment is located for the aggregation of customers onto the M247 Network (excluding the Premises and/or the Site).
- “**M247 Support Desk**” M247’s support desk from where M247 Network management functions are directed;
- “**Nominated Upstream Provider**” M247 selects, at its own sole discretion from time to time, certain providers of Internet Transit service. The services from these providers allow international internet service.
- “**Non Service Affecting Fault**” any fault which does not cause a material interruption to the Internet Services;
- “**Notification Period**” the period of 1 hour from the time a Fault is reported to M247’s Support Desk or an alarm is registered by M247’s fault management centre;
- “**Office Hours**” 0900 – 1700 Monday to Friday excluding bank holidays;
- “**PoP**” means a M247 network Point of Presence;
- “**Public Internet**” means the global system of interconnected computer networks that use the Internet protocol suite (TCP/IP) to link billions of devices worldwide;
- “**Public Internet Zone**” that portion of the Public Internet that lies beyond M247’s Core Internet Router
- “**Quarter**” each three month period commencing 1 January, 1 April, 1 July, 1 October;
- “**Service Affecting Fault**” any fault originating on the M247 Network which causes a material interruption in the Customer’s actual use of the Internet Services, which is not attributable solely to Latency,
- “**Tail Circuit**” the electronic communications network supplied by a third party circuit provider to the Customer;
- “**Target Time to Repair**” the target length of time to restore Internet Services which is measured from the end of the Notification Period registered by M247’s Support Desk as set out in paragraph 1 above;

SCHEDULE 2
Miscellaneous Charges

Service	Description	Charge (excluding VAT)
LOS or Installation Survey.	Carried out in connection with a re-location by the	As set out in the



	Customer.	current professional services price book, which is available from the Customer's Account Manager on request.
Relocation Installation.	Carried out in connection with a re-location by the Customer.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
Re-connection of service.	Following the suspension of the supply/performance of the Internet Services as a result of the Customer's breach.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
Reappointment due to failed attendance by Customer.	Where the Customer fails to attend a pre-arranged site visit and has failed to notify M247 by 2.00pm the previous day. Assumes 1 hour on site for 2 engineers.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
Cancelled appointment.	Where the Customer cancels an appointment less than 72 hours before an agreed date and time for M247 to attend the Customer's premises.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
Abandoned Call Out due to Customer not arranging access or access is prevented.	Where the Customer has failed to arrange access for M247 and M247 is unable to gain access to the Customer's premises or the building in which the Customer's premises form part.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
Engineer call out and no-fault found with M247 supplied and managed Customer's Premises Equipment.	Where the Customer reports a Fault under the Service Level Agreement and the Equipment is found not to be faulty.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
The preparation of a risk assessment and method statement.	Where the contract is terminated or the service cancelled because the Customer has prevented the Company delivering the service, or the Customer is unable to meet the conditions set out in the SOF or this contract.	As set out in the current professional services price book, which is available from the Customer's Account Manager on request.
Replacement of equipment.	Where necessary as a result of damage caused by the Customer.	As set out in the current professional



		services price book, which is available from the Customer's Account Manager on request.
Additional sundries.	Where a non-planned cable run exceeds "5" metres.	£50.00 per metre
Missed payment fee.	The Customer fails to pay an amount due under this Agreement.	£75.00 per missed payment
Administration fee.	Paying by method other than by direct debit.	£75.00 per annum
Paper billing.	Where the Customer insists on receiving a paper bill.	£10.00 per invoice
Non-return of equipment.	At the end of the contractual term.	£350.00 minimum £750.00 maximum



Schedule 4 – Processing Details

Scope of processing

M247 processes Personal Data to enable it to provide the services under this Agreement and to comply with any legal obligations imposed upon it.

Nature and purpose of processing

- Use of Personal Data to set up, operate, monitor and provide the services under this Agreement;
- Perform day to day management of accounts and products M247 provides to the Customer;
- Record consent (e.g. in respect of marketing of products and services or any other consent the Customer provides which M247 is obliged to record);
- Uploading any fixes or upgrades to the services M247 provide (where M247 is obliged to carry out fixes and/or upgrades);
- Back up of Personal Data;
- Computer processing of Personal Data, including data transmission, data retrieval, data access;
- Complying with M247's statutory obligations;
- Providing access to online platforms (if any);
- Network access to allow transfer of Personal Data;
- Execution of the Customer's written instructions in accordance with the above provisions and/or this Agreement;
- Administration of accounts to manage user permissions.

Categories of Personal Data

- Account data such as account number, device ID, IP address, service history etc.
- Personal data such as name, address, date of birth, email address, telephone number, circuit ID;
- Professional information such as job title, details of the Customer's professional body;
- Financial data such as credit or debit card details, bank account details;
- History product data and information;
- Company data where this identifies a Data Subject;
- Identification data (where required);
- Special categories of Personal Data.

Categories of Data Subjects

- Employees, contractors, temporary workers, agents, the Customer's clients and suppliers or other individuals having Personal Data to be Processed as part of M247's service to the Customer.
- End users or their authorised representatives.

Duration of Processing

M247 shall process Personal Data no longer than is necessary in order to perform its obligations under this Agreement or in order to comply with any legal requirement regarding the Processing of Personal Data.



Services Schedule

Annex 1 - Co-location and/or hosting services

1. Customer obligations

1.1. The Customer warrants to M247 as follows:

- 1.1.1. that it will act with all due care and skill when inside M247's property, working on the Customer Premises Equipment (in this schedule meaning any equipment installed by the Customer on M247's property) or otherwise;
- 1.1.2. that any equipment installed at M247's property shall at all times fully conform with the manufacturer's specification of the Customer Premises Equipment, the relevant standard or approval for the time being designated under the Act and/or other relevant legislation and all other regulations that apply to it from time to time, including without limitation, those concerning safety and electromagnetic compatibility;
- 1.1.3. that the total power consumption of all of the Customer Premises Equipment (including for the avoidance of doubt, any additional equipment installed by the Customer) shall not at any time exceed the power allocation set out in the SOF (if any);

1.2. The Customer will at all times follow the rules and procedures as laid out in the Customer Colocation Manual, a copy of which is available at request. Such manual may be amended from time to time.

1.3. M247 shall be entitled upon not less than 3 months' written notice from time to time to the Customer to move the Customer Premises Equipment to a different location within M247's property. The cost in moving and installing the Customer Premises Equipment shall be borne by M247.

1.4. The Customer shall permit M247 unrestricted physical access to the Customer Premises Equipment at all times to ascertain whether the Customers' obligations under this Agreement have been duly observed and performed.

1.5. The Customer shall not attempt to circumvent or alter any method of measuring or billing for any hosting services.

1.6. The Customer warrants that it is the owner of, or that it has authority from the owner of (and has a right to use) any trade mark or name that the Customer wishes to use as or in its registered domain name (or any of them) ("Domain Name") and/or as part of the Customer's uniform resource locator ("URL"). If M247 registers Domain Names and/or URLs on behalf of the Customer, the Customer shall pay M247 any registration fee paid by M247. M247 does not offer any guarantees that any Domain Names and/or URLs requested by M247 will be available. M247 shall also have no responsibility for checking whether any Domain Name and/or URL will infringe any intellectual property rights of a third party and the Customer shall indemnify M247 against any action (including without limitation the naming authority) that may be taken by a third party for breach of any intellectual property rights. If a dispute should arise regarding the use of any Domain Names and the Customer is unable to resolve such dispute M247 reserves the right in its absolute discretion to suspend or cancel the relevant service or services associated with the dispute.

2. Service availability power and cooling

2.1 The provision of a connection point to a protected 230 Volt supply will be available for the Customer to connect the Customer Premises Equipment and is protected by UPS battery backup system and diesel generator in the event of a power failure. Power availability target is 100%. Reasonable endeavours will be made to maintain an air temperature within the cold aisle of the pod at 23°C with a minimum of 13°C and maximum of 27°C. This will be done using equipment designed to maintain the temperature where there is an outside temperature of between 30°C and minus 2°C. If M247 fails to meet the power availability targets or temperature targets during any calendar month the Customer will receive compensation as set out below:

Power % of month power is available	Temperature % of month temperature between 13°C and 27°C	Service Credit % reduction in monthly service fee relating to co-location services
< 100.00 %	99.97 %	5 %
< 99.95 %	< 99.85 %	10 %
< 99.90 %	< 99.70 %	15 %
< 99.85 %	< 99.30 %	20 %



< 99.80 %	< 98.85 %	30 %
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2.2 Any service credit will apply to only those items of Customer Premises Equipment directly affected by the outage event. The service credit will be calculated by M247, in its reasonable discretion, having regard to the overall effect of the outage event on the Customer Premises Equipment.

2.3 In calculating the above service credits there shall be deducted from such calculation any period of time M247 is unable to repair the service affecting fault as a result of the Customer's breach of this Agreement or to follow instructions issued by M247 and/or M247 Ltd, or a disruption to the Customer Premises Equipment caused by the Customer or the Customer's Premises Equipment being faulty, or scheduled maintenance, or as a result of an event of Force Majeure **PROVIDED ALWAYS** that M247's total aggregate liability to the Customer under this Schedule shall not exceed the sum of one year's charges for the relevant affected service.

3. Power charges

3.1 Where power and space for the co-location and/or hosting services are not billed separately the parties agree that the power inclusive co-location rack will form 60% of the total area used by the Customer and the remaining area will form 40%. If electricity prices rise M247 shall be entitled to increase the cost of the co-location and/or hosting services by 60% to reflect the increase of the electricity prices.

3.2 Where power is itemised and billed separately M247 shall be entitled to pass on to the Customer any increase in the electricity prices for such power.

4. Remote hands

4.1 If M247 agrees to provide a remote hands service at its data centre the cost for such service shall be set out in the SOF.

4.2 Remote hands service is only performed at the instruction of the Customer and then in accordance with any rules and regulations relating to remote hands notified to the Customer from time to time.

4.3 If the Customer requests remote hands and M247 is unable to provide the service immediately due to lack of available staff, M247 shall use its reasonable endeavours to provide such service within 2 hours during Office Hours and within 4 hours outside Office Hours of being notified by the Customer.

5. Customer Premises Equipment

5.1 M247 shall have the right to:

5.1.1 prevent the Customer from removing the Customer Premises Equipment installed on M247's property if the Customer has not paid all Charges payable under this Agreement.

5.1.2 remove the Customer Premises Equipment if the Customer has failed to remove it after the expiry of 14 days from the date this Agreement is terminated. M247 shall account to the Customer for the costs it recovers for the Customer Premises Equipment less any charges it incurs in disposing of the Customer Premises Equipment.

5.1.3 exercise a lien over the Customer Premises Equipment in respect of any unpaid Charges due under this Agreement up to the date this Agreement is terminated. If the Customer fails to pay the unpaid Charges within 1 month after this Agreement is terminated (for whatever reason) M247 shall have the right to sell the Customer Premises Equipment to recover any unpaid Charges.

5.2 For clarification, M247 shall not be obliged to get the best price for any Customer Premises Equipment disposed of under this paragraph 5 and the Customer shall indemnify M247 against any costs it incurs in disposing of the Customer Premises Equipment.



Annex 2 – Fibre Ethernet

1. Overview

Fibre Ethernet is provided by a third party (“fibre provider”) and the fibre ethernet service will comprise one network termination unit at the Premises providing connection to the fibre provider’s network.

2. Ordering and provisioning of the Connection

- 2.1 Before M247 can provide the fibre ethernet service the fibre provider may conduct a survey of the Premises to establish whether the service can be provided to the Premises. If, as a result of the survey, the fibre provider wishes to impose an additional installation charge, the Customer shall pay such additional charge within 15 Working Days of the date of M247’s invoice.
- 2.2 The installation of any equipment belonging to the fibre provider will be carried out by the fibre provider.
- 2.3 All pre-installation checks, acceptance tests and successful completion of the acceptance tests will be conducted by the fibre provider.

3. Customer’s Premises Equipment

If the Customer is required to connect the Customer’s Premises Equipment to any equipment belonging to the fibre provider the Customer shall comply with all reasonable instructions issued by the fibre provider relating to such connection.

4. Maintenance

If any maintenance is required to any equipment owned by the fibre provider the Customer shall not prevent or delay any maintenance services to that equipment.