Master Reseller Agreement

Appointment

Reseller	**Reseller Name(s)**	{{!mergecompany }}		
	Registered Number	{{!mergecoreg}}		
	Address	{{!address }}		
		{{!address1 }}		
		{{!address2 }}	**Postcode**	{{!postcode }}
	Phone	{{!phone }}		
	Reseller Reference	{{!accountnumber }}		

Reseller's Representative	**Name**	{{!fullname }}		
	Title/Position	{{!title }}		
	Phone	{{!phone1 }}		
	Email	{{!email }}		

Supplier	**Supplier Name(s)**	Nimans Limited		
	Registered Number	01876587		
	Address	Agecroft Road, Pendlebury		
		Swinton, Manchester	**Postcode**	M27 8SB
	Representative	Tom Maxwell		
	Phone	0161 925 1482		
	Email	Tom.maxwell@nimans.net		

Appointment Particulars	**Commencement Date**	{{Dte_es_:signer:date}}
	Initial Period	24 Months
	Bond	{{!bondamount }}

Accepted for and on behalf of the Reseller	Accepted for and on behalf of the Supplier
{{_es_:signer1:signatureblock}}	{{_es_:signer2:signatureblock}}

Master Reseller Agreement

Terms of Resale

1. Structure of this Master Reseller Agreement

1.1 This Master Reseller Agreement comprises of:
- a. the Appointment which sets out the details of the Parties;
- b. these Terms of Resale which set out the legal terms governing the relationship between the Parties;
- c. the Schedules which set out further details of how this Master Reseller Agreement will be interpreted and how it can be changed; and
- d. the Service Schedules which describe the specific services that the Supplier is to provide to the Reseller for resale and the Additional Service Schedule which describes the additional services that the Supplier will provide directly to the Reseller.

1.2 Where the Supplier agrees to provide new services to the Reseller for resale under this Master Reseller Agreement, the Parties shall agree a new Service Schedule detailing such services. Unless otherwise stated, each agreed Service Schedule shall become part of this Master Reseller Agreement and shall be subject to the Appointment, these Terms of Resale and the Schedules.

1.3 Where the Supplier agrees to provide additional services directly to the Reseller under this Master Reseller Agreement, the Parties shall agree a new Additional Service Schedule detailing such additional services. Unless otherwise stated, each agreed Additional Service Schedule shall become part of this Master Reseller Agreement and shall be subject to the Appointment, these Terms of Resale and the Schedules.

1.4 Unless and until any such new Service Schedule or Additional Service Schedule comes into effect in accordance with its terms, all discussions, proposals and negotiations between the Parties regarding the provision of such new services and additional services by the Supplier shall be treated as being subject to contract and shall not create binding obligations on the Parties regarding the provision of those services.

1.5 Each Service Schedule or Additional Service Schedule will, where necessary or appropriate, incorporate terms and conditions and service levels that are specific to the particular type or types of service(s) being provided under that Service Schedule or Additional Service Schedule.

1.6 In the event that there is any conflict, inconsistency or ambiguity between any provisions of this Master Reseller Agreement, the following order of interpretation shall prevail:
- a. the Service Schedule or Additional Service Schedule; then
- b. the Appointment; then
- c. the Terms of Resale; then
- d. the Schedules.

1.7 For the purposes of clause 1.6, an omission (whether deliberate or inadvertent) shall not of itself be considered to give rise to any conflict or inconsistency between any provisions of this Master Reseller Agreement.

1.8 The Supplier can perform or provide any services to the Reseller via any member of its Group and any member of its Group can enforce this Master Reseller Agreement. The supplier entity designated in the Appointment as the Supplier or any other Nycomm Group Company as set out in a Service Schedule or Additional Service Schedule shall supply services subject to this Master Reseller Agreement. The Nycomm Group Company can enforce the terms insofar as they relate to an order in relation to a third party.

1.9 Where applicable, the Supplier will make available a copy of the Reseller Services Guide to the Reseller in relation to the Services and Additional Services. The Reseller Services Guide sets out certain procedures and policies relating to the Services and Additional Services, but, unless explicitly stated in this Master Reseller Agreement (for example where the Reseller's compliance with a particular procedure is required), the Reseller Services Guide is not legally binding and is for information purposes only.

2. Appointment

2.1 The Supplier hereby appoints the Reseller, on a non-exclusive basis, to resell the Services to Customers in the Territory in accordance with this Master Reseller Agreement from the Commencement Date. The Reseller's appointment shall continue for the Initial Period and shall thereafter automatically continue until terminated in accordance with these Terms of Resale (the **Term**).

2.2 The Reseller acknowledges that the Supplier may in its absolute discretion appoint other resellers of the Services at any time.

2.3 Where the Reseller appoints a third party to further resell the Services, the Reseller shall procure that such third party shall comply with this Master Reseller Agreement as if it was a party to this Master Reseller Agreement. For the avoidance of doubt, except where required by operation of law, the Supplier shall have no liability, responsibility or obligations to such third parties.

3. Provision of the Services

3.1 The Supplier shall:
- a. provide the Services to the Reseller for resale in the Territory in accordance with:
  - i. Good Industry Practice;
  - ii. the applicable Service Schedule;
  - iii. any applicable Service Levels; and
  - iv. all Applicable Law;
- b. use reasonable endeavours to provide and maintain the availability of the Services, but the Supplier does not warrant that the Services will be free from defect, fault or interruption;
- c. use reasonable endeavours to achieve or exceed any agreed KPI's in respect of the Supplier's performance of this Master Reseller Agreement; and
- d. use reasonable endeavours to provide the Services which are ordered by any agreed delivery date, provided always that any such agreed date is an estimate and non-binding. Time shall not be of the essence in relation to the Supplier's provision of the Services. Any lead or provisioning timescales as set out in the Reseller Services Guide are the Supplier's best estimates but are for general guidance purposes only.

3.2 The Reseller acknowledges that the Services may be, at the Supplier's discretion, provided by a Sub-contractor.

4. Onboarding Process

4.1 Following agreement of a Service Schedule, the Supplier shall initiate the Onboarding Process for the relevant Services as set out in the Reseller Services Guide.

4.2 The Reseller shall not be entitled to place any Orders for any particular Services until the Onboarding Process in respect of those Services has been completed. Target lead times for the completion of the Onboarding Process are set out in the Reseller Services Guide.

4.3 The Reseller shall provide the Supplier with all support and assistance requested during the Onboarding Process and the Reseller acknowledges that any delay or non-provision of such support and assistance may result in delays in the completion of the Onboarding Process or the inability to complete the Onboarding Process.

5. Support

5.1 The Supplier will provide the Reseller with the Support for Services as set out in the Reseller Services Guide in accordance with the relevant Service Schedule.

5.2 Unless agreed otherwise in writing, Support shall only be available to the Reseller during Working Hours.

5.3 The Supplier will not accept Service Fault reports directly from Customers unless agreed in writing. Unless otherwise specified in the Service Schedule or the Order, the Supplier is not obliged to provide Support in relation to Customer Premises Equipment, and in the event that the Supplier does provide Support in relation to Customer Premises Equipment, the Supplier reserves the right to charge the Reseller at its standard rates as may apply from time to time in respect of such Support.

5.4 Without the Supplier's prior consent, the Reseller must not publish or give to Customers contact details for the Supplier's personnel.

6. Service Levels and Service Credits

6.1 The Service Schedule will set out the Service Levels (if any) which apply to the Supplier's supply and the availability of the relevant Services and Support provided to the Reseller.

6.2 The Reseller shall promptly notify the Supplier of any Service Fault in accordance with the procedures as set out in the Reseller Services Guide and provide such information as the Supplier may require to investigate the problem and any other assistance as set out in the Reseller Services Guide. The Supplier shall have no liability for any faults, down-time or interruptions to Services which originate from Customer Premises Equipment.

6.3 All Service Faults that are logged with the Supplier will be investigated. If it is discovered that no fault can be found or such fault originates from Customer Premises Equipment, the Supplier reserves the right to charge the Reseller for the time, materials and expenses incurred in relation to the investigation (including for any site visits).

6.4 Where applicable and where specifically referred to in the relevant Service Schedule, where a Service Level is not met the Reseller may be entitled to claim, and the Supplier shall pay, Service Credits in accordance with the relevant Service Schedule and the procedures as set out in the Reseller Services Guide. The Reseller acknowledges that such Service Credits are a genuine pre-estimate of the loss likely to be suffered by the Reseller where the applicable Service Level is not achieved.

6.5 Entitlement to Service Credits shall be the Reseller's sole and exclusive remedy in respect of any loss arising from or relating to a failure to achieve the Service Level to which such Service Credits relate.

6.6 Where a Service Fault is not notified in accordance with the procedures as set out in the Reseller Services Guide then this may result in the Reseller losing its entitlement to such Service Credits. Loss of entitlement to Service Credits shall not entitle the Reseller to any other remedy in respect of such Service Fault.

6.7 Unless otherwise stated in a Service Schedule, the Reseller's entitlement to Service Credits in respect of any particular Services in any particular month shall in no event exceed the total level of Charges paid in respect of such Services in that month.

7. The Supplier's Obligations

7.1 The Supplier shall:
- a. obtain and maintain all licences, certifications, permissions, consents and approvals required to supply the Services to the Reseller under this Master Reseller Agreement or, to the extent applicable, procure that the relevant Sub-contractor does so;
- b. upon receipt of a reasonable request, assist the Reseller in the collection and preparation of information relating to use of the Services by Customers;
- c. make available to the Reseller information to enable the Reseller to invoice Customers;
- d. provide the Reseller with such reasonable technical advice, assistance and information relating to the provision of the Services as the Reseller reasonably requests from time to time, provided that the Reseller shall pay the Supplier's charges as may apply from time to time in respect of such services; and
- e. provide or facilitate training and related services to employees of the Reseller, provided that the Reseller shall pay the Supplier's charges as may apply from time to time in respect of such services.

7.2 The Supplier may, in its discretion, provide the Reseller with access to a Portal from time to time. The Reseller will use such a Portal for the purposes (such as placing and managing Orders) specified by the Supplier (or an applicable Sub-contractor) from time to time and strictly in accordance with any and all instructions, terms and conditions and guidance issued by the Supplier (or an applicable Sub-contractor) from time to time. The Reseller acknowledges that access to a Portal may not be fault free or uninterrupted and that the Supplier will have no liability to the Reseller in respect of the provision, availability, use or otherwise of a Portal.

8. Reseller's Obligations

8.1 The Reseller shall:

Performance of this Master Reseller Agreement

- a. promptly perform all of its obligations under this Master Reseller Agreement and each Customer Contract in a fair, reasonable and ethical manner, in good faith and in accordance with Good Industry Practice;
- b. comply with all Applicable Law, obtain and maintain all licences, certifications, permissions, consents and approvals required to market, receive, use and/or resell the Services;

c. take all steps reasonably required by the Supplier and/or a Sub-contractor to facilitate their compliance with Applicable Law and not do anything which may cause the Supplier or a Sub-contractor to be in breach of Applicable Law or otherwise cause any Sub-contractor to lose or breach its authorisation to act as a public communications provider;
d. comply promptly with all Service Literature, instructions, policies, codes of practice, directions, guidance and procedures issued or provided by the Supplier, a Sub-contractor or any Authority from time to time regarding the Services and Service Equipment;
e. co-operate with and take all such steps or courses of action as are necessary to assist the Supplier and/or a Sub-contractor in the provision of the Services (including the testing of all relevant systems relating to the Services) and provide all such information the Supplier and/or a Sub-contractor may reasonably request from time to time in order to verify the Reseller's compliance with this Master Reseller Agreement and to comply with Applicable Law;
f. in performing its obligations under this Master Reseller Agreement, use suitably skilled, professional and experienced individuals, including such personnel as are required to provide proper demonstration, sales, advisory, installation, repair, maintenance and after sales services to Customers, to a standard appropriate to the quality and sophistication of the Services;
g. maintain suitable and appropriate quality management systems, accreditation levels and facilities necessary to ensure the efficient supply of the Services;
h. complete, and procure that all relevant personnel complete such training as the Supplier's may reasonably require in order to assist in the sale and support of the Services at the Reseller's cost and on such days and at such times as the Supplier may specify from time to time;
i. not resell the Services to locations outside the Territory;
j. use all reasonable endeavours to achieve or exceed any agreed KPI's in respect of the Reseller's performance of this Master Reseller Agreement;

Promotion, Sales and Supply of the Services

k. achieve or exceed the Sales Performance Criteria;
l. use best endeavours to promote and maximise sales of the Services in a form, manner and content consistent with the Service Literature and in accordance with Good Industry Practice;
m. meet with the Supplier within one (1) calendar month of the Commencement Date in order to agree a business plan and a quarterly marketing plan and thereafter provide an annual business plan on or around the anniversary of the Commencement Date and a quarterly marketing plan on or around the beginning of each quarter during the Term;
n. not do anything which could reasonably be expected to bring the Supplier and/or a Sub-contractor into disrepute;
o. promptly report any Customer complaints or concerns which relate to the Services to the Supplier and use best endeavours to minimise and reasonably deal with Customer complaints or concerns in a timely manner;

Use of the Services

p. promptly report any defects, faults or failures of or with the Services which come to its attention and any act or omission of the Supplier (or of any Sub-contractor), or any act or omission of the Reseller or any Customer if the Reseller has reasonable grounds to believe that such act or omission may have a detrimental effect on the Services;
q. not itself, and shall procure that Customers shall not, use or attempt to use the Services, any Service Equipment or any network, software or systems of the Supplier, a Sub-contractor or any other third party connected with or used in the provision of the Services, or any Customer Premises Equipment connected to the same:
   i. to make calls which are, or for the transmission or knowing receipt of any message or material which is, defamatory, offensive, discriminatory, abusive or of an obscene or menacing character;
   ii. in a manner which would constitute or contribute to the commission of a crime, tort, fraud or other unlawful activity (including activities deemed unlawful under a complainant's jurisdiction) or which is immoral;
   iii. in a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to Intellectual Property Rights or confidentiality);
   iv. to cause annoyance, inconvenience or needless anxiety to any person (including sending junk communications or spam);
   v. in any way that, in the Supplier's reasonable opinion, is likely to impair, interfere with, degrade, damage or place an unreasonable burden on the Services, any Service Equipment, or any software or systems connected with the Services;
   vi. in contravention of any acceptable use, fair usage, security or health and safety policies issued
   or provided by the Supplier or a Sub-contractor from time to time;
   vii. in any way that reverse engineers, modifies, decompiles, disassembles or reconfigures the Services, any Service Equipment, or any software or systems connected with the Services, or which copies any such software or systems or any Materials unless expressly permitted by Applicable Law or with the Supplier's prior written consent;
   viii. for the transmission of any material (including any virus, computer worm, ransomware, trojan horses, keyloggers, spyware, malware or the like) which is likely to cause harm to any Service Equipment, or any software or systems of the Supplier, a Sub-contractor or any other third party connected with or used in the provision of the Services;
   ix. in such a way as to constitute a violation of any Applicable Law;
   x. for any other prohibited uses or purposes or in any way which is prohibited as set out in any relevant Service Schedule; or
   xi. to promote any of the activities or behaviours prohibited by clauses 8.1(q)(i) to 8.1(q)(x).
r. use reasonable endeavours to detect, identify and prevent the Services being used by a Customer or any third party in a manner prohibited under clause 8.1(q) and shall promptly notify the Supplier upon becoming aware of any such misuse;
s. provide the Supplier with reasonable notice of any significant increase in traffic across any network via which the Services are provided which the Reseller reasonably anticipates as a result of the proposed use of the Services by the Reseller or a Customer;
t. comply with any requirements, guidelines, codes of practice and instructions issued or provided by the Supplier regarding location based services, adult content services and the protection of minors;

Reseller's Conduct

u. have no authority, and shall not hold itself out, or permit any person to hold itself out, as being authorised to bind the Supplier in any way, and shall not do any act or omit to do any act, the commission or omission of which might reasonably create the impression that the Reseller is so authorised. In particular, the Reseller shall not in any manner:
   i. pledge the credit of the Supplier;
   ii. receive any money on behalf of the Supplier;
   iii. make any contracts or commitments or incur any liability for or on behalf of the Supplier; nor
   iv. make any warranty or representation regarding the Services other than as authorised by the Supplier in writing or set out in this Master Reseller Agreement;
v. not engage in any misleading, dishonest, deceptive or unethical conduct and not knowingly misrepresent the Supplier, a Sub-contractor or the Services whether to Customers or any other third party and in particular shall not:
   i. represent itself as the Supplier or any Sub-contractor or as an agent of the Supplier or any Sub-contractor;
   ii. misrepresent its relationship with the Supplier or any Sub-contractor; nor
   iii. misrepresent the nature and/or effect of its contractual arrangements with Customers.

9. Access to Equipment Locations

9.1 Where applicable, the Reseller shall obtain all necessary consents and co-ordinate for the Supplier and/or a Sub-contractor to be provided access to an Equipment Location on reasonable advance notice in accordance with such Equipment Location's access rules in order to carry out its obligations and exercise its rights under any Order as required from time to time.

9.2 The Reseller shall provide or procure a suitable and safe working environment at the Equipment Location. The Supplier agrees to comply (and shall procure that any Sub-contractors comply) with all health and safety policies applicable to an Equipment Location and reasonably notified to the Supplier in advance and, to the extent permitted by Applicable Law, the Supplier shall be responsible for any activities at an Equipment Location involving the Supplier's personnel and the personnel of a Sub-contractor which infringes such policies. Any period of delay in providing the Supplier and/or a Sub-contractor with access to an Equipment Location shall be excluded from any Service Level calculation.

10. Service Equipment

10.1 Where applicable, the Supplier and/or a Sub-contractor shall deliver, install, test, maintain or replace any applicable Service Equipment at the relevant Equipment Location in accordance with the applicable Order.

10.2 Where applicable, the Reseller confirms that it has (and has responsibility for obtaining) all the necessary consents for the Supplier or its subcontractors to install and keep the Service Equipment at the relevant Equipment Location.

10.3 The Reseller shall at all times provide a secure and uninterrupted electricity power supply (including, for the avoidance of doubt, an appropriate backup electricity power supply) as well as suitable accommodation and environmental conditions for the relevant Service Equipment where required. The Supplier shall specify in advance and the Reseller will implement at its own expense all reasonable preparations necessary for the delivery and installation of the Service Equipment.

10.4 The Reseller shall:
   a. be responsible for keeping the Service Equipment safe and secure at the Equipment Location without interference and take all steps reasonably necessary to ensure nobody (other than someone authorised by the Supplier) adds to or modifies it in any way;
   b. use the Service Equipment in accordance with any written instructions issued or provided by the Supplier;
   c. be liable for any loss or damage to the Service Equipment caused by a Customer's acts or omissions; and
   d. ensure that no Service Equipment is removed from any Equipment Location without the Supplier's prior written consent.

11. Other Equipment

11.1 The Reseller may order other equipment or apparatus from the Supplier for its own use or provision to Customers including Customer Premises Equipment. Unless otherwise stated in the relevant Service Schedule, such equipment and apparatus shall be subject to the Standard Terms of Sale.

11.2 Where applicable, any Customer Premises Equipment connected to the Supplier's or a Sub-contractor's network must be:
   a. technically compatible with the Services and not harm the Services, any Service Equipment or any network, software or systems of the Supplier, a Sub-contractor or any other third party used in the provision of the Services or another Customer's network or equipment; and
   b. connected and used in accordance with any relevant instructions, standards or Applicable Law.

12. Additional Services

12.1 The Reseller may request any Additional Services from the Supplier at any time, and, if requested, the Supplier may provide the Additional Services to the Reseller in accordance with the terms of this Master Reseller Agreement, Good Industry Practice and all Applicable Law.

12.2 The Supplier will charge for the Additional Services at the rates set out in the relevant Additional Service Schedule and thereafter notified by the Supplier in arrears in the manner as set out in the appropriate Additional Service Schedule.

13. Orders

13.1 The Reseller may from time to time during the term of each relevant Service Schedule place Orders for Services in accordance with the procedures as set out in the Reseller Services Guide.

13.2 When placing an Order, the Reseller shall provide the Supplier and/or the Sub-contractor with such Customer Details as are reasonably required by the Supplier and/or the Sub-contractor in order to provide the Services. Each Customer whose details are provided by the Reseller to the Supplier shall be deemed to have provided permission for its Order to be processed by the Supplier and/or the Sub-contractor (and no further enquiry shall be made by the Supplier or the Sub-contractor).

13.3 The Supplier may accept or reject Orders in its discretion. The Supplier shall advise the Reseller if an Order is not accepted stating the reason why.

13.4 In the event that the Reseller wishes to cancel an Order following acceptance but before the provision of the relevant Services commences, the Reseller shall follow the procedure as set out in the Reseller Services Guide. Cancellation of an Order following acceptance shall be at the Supplier or the Sub-contractor's discretion (as applicable) and may be subject to such conditions and charges as the Supplier or the Sub-contractor requires.

13.5 An Order shall not come into effect and be binding on the Supplier until it commences in accordance with the relevant Service Schedule. Upon acceptance of an Order the terms of this Master Reseller Agreement shall apply to that Order to the exclusion of any other terms and conditions, including those contained within the Reseller's purchase order.

14. Customer Contracts

14.1 The Reseller shall offer the Services to Customers and potential Customers, without unfair discrimination, and provide Customers and potential Customers with details of applicable charges in relation to the supply of the Services and with copies of the Customer Contracts free of charge.

14.2 The Parties acknowledge that, save as where necessarily implied under Applicable Law, there shall be no contractual relationship between the Supplier and Customers and that, as between the Reseller and the Supplier, the Reseller shall be responsible for:
   a. the Customers' use of the Services; and
   b. all dealings with Customers regarding the Services.

14.3 The Reseller shall:
   a. carry out reasonable due diligence on potential Customers and their creditworthiness and reasonably satisfy itself as to the suitability of the potential Customer;
   b. procure the authority of Customers to place Orders and provide the Supplier with the Customer Details; and
   c. procure the authority of Customers to cease their service from the applicable services currently provided by their existing supplier of services as is reasonably necessary for the provision of the Services.

14.4 The Parties acknowledge that, as between the Supplier and the Reseller, the Reseller is responsible for the adequacy and maintenance of any Customer Premises Equipment and ensuring that each Customer has the facilities and technical capabilities to access and/or receive the Services and carry out or procure the carrying out of all preparatory work necessary for each Customer to access and/or receive the Services.

14.5 Customer Contracts shall be no less advantageous to the Supplier as this Master Reseller Agreement and in particular will contain:

a. a prohibition on use of the Services in locations outside of the Territory;
b. a requirement to comply with all Applicable Law and obtain and maintain all licences, certifications, permissions, consents and approvals required to receive and use the Services;
c. a requirement to co-operate with and take all such steps or courses of action as are necessary to assist the Supplier and/or a Sub-contractor in the provision of the Services and to comply with all Applicable Law;
d. a requirement to comply with all Service Literature, instructions, policies, codes of practice, directions, guidelines and procedures issued or provided by the Supplier or any Authority from time to time regarding the Services and Service Equipment;
e. a requirement that the Supplier, its sub-contractors and/or a Sub-contractor may access the Equipment Location in order to install, test, maintain or replace the Service Equipment and a requirement to provide a suitable and safe working environment on site;
f. a requirement to promptly report any defects, faults or failures with the Services which come to its attention;
g. a requirement not to do anything which could be reasonably expected to bring the Supplier and/or a Sub-contractor into disrepute or to act, or fail to act, in a way which would cause the Reseller to breach its obligations under this Master Reseller Agreement;
h. restrictions equivalent to the provisions of clause 8.1(q);
i. obligations in respect of Customer Premises Equipment equivalent to the provisions of clause 11.2; and
j. rights of suspension equivalent to the provisions of clause 25.1,

and the Reseller shall diligently and promptly enforce such terms. Subject to this clause 14.5, the Reseller shall be entitled to dictate and amend the terms of Customer Contracts and shall have exclusive control, as between the Reseller and the Supplier, over the tariffs charged to Customers.

14.6 The Reseller shall not agree to supply Services to any potential Customer or place any Order on behalf of a Customer or potential Customer that has not agreed in writing to be bound by the relevant Customer Contract without the Supplier's prior written consent.

14.7 For the avoidance of doubt, the Reseller is solely responsible for ensuring that each Customer Contract is adequate and appropriate and nothing in this clause 14 (including any consent given by the Supplier's pursuant to clause 14.6) shall imply that any Customer Contract is legal, enforceable and compliant with this Master Reseller Agreement or Applicable Law or are otherwise appropriate for the resale of the Services.

15. Security

15.1 The Reseller shall:

a. implement and maintain its own security policy to ensure compliance with any security policies issued or provided by the Supplier or a Sub-contractor from time to time and provide the Supplier with a copy of such policy upon request;
b. ensure, and procure that its Customers ensure, that any user names and passwords used in connection with the Services are kept confidential and are only used by authorised users and that Customers do not attempt to change their user names at any time; and
c. inform the Supplier immediately if it knows or suspects that there has been a serious breach of its security policy or that a user name or password has been disclosed to an unauthorised user or is being used in an unauthorised way.

15.2 The Supplier reserves the right, acting reasonably, to:

a. suspend user names and password access to the Services if at any time the Supplier suspects that there has been or is likely to be a breach of security; and
b. ask the Reseller to change any or all of the passwords the Reseller or Customers use in connection with the Services (and the Reseller shall promptly comply with such request).

15.3 Where there has been a serious breach of the Reseller's security policy or a user name or password has been disclosed to an unauthorised user or has been used in an unauthorised way, the Reseller shall provide the Supplier with an explanation of the cause of such breach and any proposals for remedy. The Reseller shall take all reasonable steps necessary to remedy the breach and minimise the risk of future breach.

15.4 The Reseller accepts and acknowledges that the Services may not be secure and the Supplier does not guarantee the prevention or detection of any unauthorised attempts to access the Services and shall have no liability in respect of any technological attack (including denial of service attacks, viruses, worms and computer hacking) against the Services, the Service Equipment, any Customer Premises Equipment or otherwise.

15.5 The Supplier shall not be responsible for any Charges or costs resulting from fraudulent use of the Services or Customer Premises Equipment by the Reseller, its Customers or any other person and the Reseller agrees to pay all additional Charges and costs related to such fraud.

15.6 It is the Reseller's and the applicable Customer's responsibility to monitor usage of any Services provided pursuant to this Master Reseller Agreement.

15.7 The Parties agree to fully co-operate with the police and any other Authority in connection with any misuse or suspected misuse of the Services and the Reseller consents to the Supplier co-operating with any other third party supplier in connection with any suspected fraudulent activity related to or connected with the Services. The Reseller shall provide such data in respect of a Customer and its use of the Services (including the Customer Details) as the Supplier may reasonably require in order to co-operate with such third parties and agrees that the Supplier may divulge any Customer information and any applicable information regarding the Reseller to such third parties for this purpose.

16. Changes to Services and Charges

16.1 The Supplier and any Nycomm Group Company shall be entitled, by giving the Reseller such advance notice as is reasonably practicable, to:

a. change, modify, enhance, replace or make additions to any of the Services (or any part of them) as the Supplier or any Nycomm Group Company sees fit for any reason from time to time; and
b. alter the way in which any Services are delivered,

provided always that any such changes do not have a material adverse effect on the Services.

16.2 Notwithstanding clause 16.1, the Supplier may, without any liability to the Reseller, implement any change, modification, enhancement, addition or alteration to the Services which are imposed by a Sub-contractor for any reason even if such changes have a materially adverse effect on the Services. Where the Reseller can demonstrate to the Supplier's reasonable satisfaction that any such change will have a material adverse effect on the Services, the Parties will each acting reasonably work together to attempt to mitigate the impact of any such change to the extent that it is within their control.

16.3 The Supplier may vary the Charges for all existing and future Orders:

a. on as much notice as is reasonably practicable to reflect any changes made in accordance with clause 16.1, to reflect any change in arrangement with a Sub-contractor or any change in Applicable Law; and
b. in all other circumstances on thirty (30) days' written notice.

17. Other Changes to this Master Reseller Agreement

17.1 The Supplier shall be entitled to change this Master Reseller Agreement at any time (and without requiring the consent of any Nycomm Group Company) by giving notice where necessary to comply with Applicable Law, to comply with the direction or instructions of any Authority or as otherwise set out in a relevant Service Schedule.

17.2 Except as set out in clause 16 and clause 17.1, any change to the Services, Additional Services or to this Master Reseller Agreement must be agreed by the parties in writing and, unless agreed otherwise, in accordance with the Change Control Procedure.

18. Charges, Invoicing and Payment

18.1 The Charges shall be payable in respect of each of the Services and Additional Services in accordance with the payment frequencies and timings specified in the relevant Service Schedule or Additional Service Schedule.

18.2 Each month the Supplier shall submit an invoice to the Reseller of the aggregate Charges payable by the Reseller to the Supplier in respect of the Services and Additional Services for that relevant month.

18.3 Unless otherwise specified in any Service Schedule or Additional Service Schedule, the Reseller shall pay all Charges:

a. by monthly Direct Debit to the account notified to the Reseller from time to time. Payment by Direct Debit will be taken within thirty (30) days of the date of invoice; or
b. any other method agreed with us within fifteen (15) days of the date of invoice.

Where payments are made by Direct Debit, a Direct Debit instruction form must be completed. This will give the Reseller the protection of the Direct Debit Guarantee.

18.4 If the Reseller (acting reasonably and honestly) disputes any amount due to the Supplier under any invoice, the Reseller shall notify the Supplier of the same giving all relevant details of the dispute within ten (10) Working Days of the date of invoice (or such date as is otherwise specified in any Service Schedule or Additional Service Schedule) and, on the date scheduled for payment of the relevant invoice, the Reseller shall pay to the Supplier all amounts not validly disputed by the Reseller.

18.5 Any matters referred to in the notice of dispute submitted pursuant to clause 18.4 which cannot be agreed in writing between the Parties acting reasonably within ten (10) Working Days after the Supplier's receipt of such notice from the Reseller shall be addressed in accordance with clause 44 to reach settlement on any items that are the subject of the dispute.

18.6 The Charges shall be exclusive of all Taxes which shall be payable in addition to the Charges as applicable at the rate and in the manner prescribed by Applicable Law from time to time.

18.7 If any sum properly due under this Master Reseller Agreement is not paid by the due date and is not being dealt with pursuant to clause 18.4 above, the Supplier reserves the right to charge interest on such sum on a daily basis (after as well as before any judgement) from the due date to the date of payment at the rate of four per cent (4%) above the base rate from time to time of Barclays Bank plc and to recover from the Reseller all reasonable costs and expenses it incurs in securing payment of such outstanding amounts.

18.8 The Reseller shall not be entitled to offset any amounts owed by the Supplier to the Reseller under this Master Reseller Agreement or otherwise with any amount owed by the Reseller to the Supplier. The Supplier shall be entitled to offset any amounts owed by the Reseller to the Supplier under this Master Reseller Agreement or otherwise with any amount owed by the Supplier to the Reseller.

18.9 The Reseller is responsible for collecting any monies owed to the Reseller by its Customers in connection with the Services and shall pay invoices issued by the Supplier in respect of the Services regardless of any outstanding monies owed to it by its Customers or in dispute with its Customer.

18.10 The Supplier reserves the right to vary the Charges pursuant to clause 16.3 or otherwise in accordance with the terms of each Service Schedule.

18.11 Save in the case of demonstrable and manifest error all Charges shall be calculated in accordance with data recorded or logged by, or on behalf of, the Supplier.

18.12 Notwithstanding clause 18.4, any queries the Reseller may have regarding any reconciliations or alleged overpayments (whether resulting from invoicing errors, clerical errors or otherwise) which would not have been reasonably obvious upon receipt of the invoice or within the ten (10) Working Day notice period described in clause 18.4 (for example due to the requisite Customer data being unavailable for verification purposes) must be notified in writing to the Supplier within six (6) months' of the date of invoice. Any query received after such six (6) month period has elapsed will be processed at the Supplier's discretion.

18.13 The Supplier may correct any invoice sent to the Reseller providing it notifies the Reseller within six (6) months of the date of the invoice giving its reasons.

19. Bonds and Credit Limits

19.1 If specified in the Appointment or otherwise required at any other time by the Supplier upon giving written notice to the Reseller, the Reseller shall pay a Bond on or before the Commencement Date or by such other date as notified in writing by the Supplier which is to be held by the Supplier in a bank account designated to hold Bonds and the Supplier shall not use the Bond for any purposes other than in accordance with this clause 19.

19.2 The level of the Bond payable by a Customer shall be as set out in the Appointment or as otherwise required by the Supplier from time to time and notified to the Reseller in writing.

19.3 Where the Reseller is late in making any payment of the Charges, the Supplier may deduct from the Bond the overdue amount (including any interest due in accordance with this Master Reseller Agreement). The Supplier may deduct such amount from the Bond notwithstanding any dispute raised or claim made by the Reseller.

19.4 For the avoidance of doubt, the Parties acknowledge that the application of the Bond by the Supplier to an overdue amount will release the Reseller from its obligation to pay that amount under this Master Reseller Agreement provided the Bond is sufficient to meet such liability in full, but does not affect any other rights and/or remedies available to the Supplier under this Master Reseller Agreement for such late payment.

19.5 In the event that the Supplier deducts an amount from the Bond in accordance with clause 19.3, the Supplier can require the Reseller to pay to the Supplier the amount necessary to replenish the Bond to the original amount (or such other amount as determined by the Supplier in accordance with clause 19.2) as a condition of the Supplier waiving its right to terminate this Master Reseller Agreement for late payment under clause 27.1(b).

19.6 Where the overdue amount deducted from the Bond in accordance with clause 19.3 is less than the amount of the Bond held, the Supplier will hold the balance of the Bond until it is returned in accordance with clause 19.7.

19.7 The Supplier will return the Bond to the Reseller if this Master Reseller Agreement is terminated and all Orders have either been terminated or have expired and the Reseller pays all amounts owing to the Supplier under this Master Reseller Agreement. The Supplier shall be entitled to use the Bond for the purpose of off-setting any outstanding Charges or other amounts owed to the Supplier without prejudice to the Reseller's liability to pay the balance of such amounts.

19.8 The Supplier shall be entitled to impose a credit limit on a Reseller's account by giving notice in writing. Where the Reseller exceeds such credit limit:
- a. The Supplier may demand immediate payment of any Charges incurred; and
- b. the Reseller shall remain responsible for all Charges incurred, including those exceeding the credit limit.

20. Warranties

20.1 Each Party warrants that:
- a. it has full power and authority to enter into and perform this Master Reseller Agreement and that the person who signs the Appointment and each Service Schedule and Additional Service Schedule on behalf of the Party has been duly authorised to do so;
- b. its entry into and performance of this Master Reseller Agreement will not infringe the rights of any third party or cause it to be in breach of any obligations to a third party or any Applicable Law;
- c. it shall not, during the Term of this Master Reseller Agreement, enter into any contract or accept any obligation inconsistent or incompatible with its obligations under this Master Reseller Agreement; and
- d. it shall procure, as necessary, the performance by its officers, employees, agents and sub-contractors of all such actions as are required to complete and satisfy its obligations under this Master Reseller Agreement.

20.2 Except as expressly stated in this Master Reseller Agreement, all warranties, conditions, terms and undertakings, whether express or implied by statute, common law, course of dealings, collaterally or otherwise (including those relating to quality or fitness for purpose of the Services) are excluded to the fullest extent permitted by Applicable Law).

21. Indemnities

21.1 The Reseller shall indemnify, and hold harmless, the Supplier against any costs (including reasonable legal fees), damages, liabilities, fines, penalties, losses or expenses suffered or incurred by the Supplier arising out of or in connection with:
- a. any legal actions, claims, proceedings, investigations or demands (a Claim):
  - i. brought against the Supplier or any Sub-contractor by any third party alleging that the Reseller's or a Customer's use of the Services other than in compliance with this Master Reseller Agreement or in combination with any products or services infringes any Intellectual Property Rights of a third party;
  - ii. brought against the Supplier by a third party alleging that the Supplier's use of any Intellectual Property Rights licensed under clause 30.6 infringes the Intellectual Property Rights or other rights of any third parties;
  - iii. brought against the Supplier or any Sub-contractor by any Customer; or
- b. any breach of clauses 8.1, 9.2, 15, 20.1, 31, 33, 34 or 35 by the Reseller or, as applicable, any Customer.

21.2 In relation to any claim which the Supplier wishes to make in respect of a Claim pursuant to clause 21.1(a):
- a. the Supplier shall promptly give the Reseller written notice of any Claim specifying the nature of the Claim in reasonable detail (any failure or delay by the Supplier in giving such written notice shall not constitute a breach of this Master Reseller Agreement and shall not excuse the Reseller's obligation under this clause 21, except to the extent (if any) that the Reseller is prejudiced by such failure or delay); and
- b. the Supplier shall not make any admission of liability, agreement or compromise in relation to the Claim without the prior written consent of the Reseller (such consent not to be unreasonably withheld or delayed).

21.3 Nothing in this clause shall restrict or limit the Supplier's general obligation at law to mitigate a loss it may suffer or incur as a result of an event that may give rise to a claim under clause 21.1.

21.4 The indemnity under clause 21.1 shall not cover the Supplier to the extent that a claim results from the Supplier's negligence or wilful misconduct.

22. Liability

22.1 The Charges reflect the following limitations and exclusions of liability which the Parties acknowledge and agree are reasonable in the circumstances.

22.2 Subject to clause 22.5 and clause 22.6, the Supplier's entire liability under or in connection with this Master Reseller Agreement whether in contract, tort (including negligence) or for breach of statutory duty or otherwise, in respect of all causes of action or claims arising from a single event or a series of connected events shall not exceed the total of the Charges paid or payable by the Reseller in relation to the Services and/or Additional Services which are the subject of the cause of action or claim during the twelve (12) month period immediately preceding the event giving rise to the cause of action or claim.

22.3 Any Service Credits paid or credited to the Reseller shall be taken into account for the purposes of calculating the limit of the Supplier's liability.

22.4 Subject to clause 22.6, the Supplier shall not in any circumstances be liable for:
- a. any claims made or alleged by a third party against the Reseller as a result of the Reseller's failure to comply with its obligations under this Master Reseller Agreement;
- b. any charges incurred by the Reseller should the Reseller seek substitute or alternative services from another operator;
- c. any failure, non-provision or delay in the provision of the Services which:
  - i. can be reasonably attributed to the acts or omissions of the Reseller, its employees or agents or the interoperability of the Reseller's or any Customer products or applications with the Services; or
  - ii. occurs during any period of Maintenance which is notified in accordance with the procedures as set out in the Reseller Services Guide;
- d. any unavailability of the Services that is due in whole or in part to the failure of any Customer Premises Equipment, or any third party services, network or software; and
- e. any claims made or alleged by third parties (including any Customer) against the Reseller that result from fraudulent use of the Services.

22.5 Subject to clause 22.6 and except for any liability arising under clause 21.1 or in relation to the payment of the Charges or any Early Termination Charges, neither Party shall be liable, in contract, tort (including negligence) or for breach of statutory duty or otherwise for:
- a. any loss or damage incurred by a Party as a result of third party claims;
- b. any loss of profits, revenue, business opportunity, goodwill, data, contracts or anticipated savings;
- c. any injury to reputation or wasted expenditure; or
- d. any indirect, consequential or special losses.

22.6 Nothing in this Master Reseller Agreement shall operate so as to exclude or limit the liability of either Party to the other:
- a. for death or personal injury resulting from its negligence;
- b. for fraud or fraudulent misrepresentation; or
- c. for any other liability the exclusion or limitation of which is not permitted by the law of England and Wales.

23. Force Majeure

23.1 If a Force Majeure Event occurs which prevents either Party (the **Affected Party**) from performing any of its obligations to the other (the **Other Party**), or causes a delay in such performance, the Affected Party shall not be liable to the Other Party and shall be released from its obligation to perform such obligations (other than any obligation to pay the Charges) to the extent that its ability to perform the obligations has been directly affected by the Force Majeure Event, provided always that the Affected Party:
- a. notifies the Other Party in writing as soon as reasonably practical of the occurrence of the Force Majeure Event and the nature and likely duration of its impact upon the Other Party;
- b. continues to perform all its obligations which have not been affected by the Force Majeure Event;
- c. resumes normal performance of all affected obligations as soon as reasonably possible after the Force Majeure Event ceases to have an impact, and notifies the Other Party in writing promptly of such resumption; and
- d. uses all reasonable endeavours to mitigate the effects of the Force Majeure Event.

24. Insurance

24.1 Each Party shall at its own expense effect and maintain with reputable insurers, insurance as follows:
- a. public liability (third party) insurance;
- b. employers' liability insurance; and
- c. professional indemnity insurance,

each in a sum that will satisfy their obligations and accepted liabilities under this Master Reseller Agreement in respect of any one act or occurrence or series of acts or occurrences arising from one cause in any one (1) Year.

24.2 The Reseller shall provide a copy of any requisite certificates of insurance together with details of any limits, renewal dates, coverage extensions and exclusions for any such policies as requested by the Supplier from time to time. The Reseller shall immediately inform the Supplier if the terms of any requisite insurance policies are changed in any way that may adversely affect the Supplier's or a Sub-contractor's interests.

25. Suspension of the Services

25.1 The Supplier shall, without prejudice to its other rights, be entitled to suspend, interrupt or limit the provision of the Services in whole or in part at any time:
- a. without prior notice:
  - i. to comply with an order, instruction or request of any governmental body, an emergency services organisation, or any Authority;
  - ii. if the ability of the Supplier and/or a Sub-contractor to connect to any Customer Premises Equipment, or any third party services, network or software is withdrawn or compromised for any reason;
  - iii. the Reseller is in breach of this Master Reseller Agreement (including any payment obligations);
  - iv. where it reasonably believes the Reseller is in breach of clause 8.1;
  - v. the Supplier has a right to terminate this Master Reseller Agreement in accordance with clause 27; or
  - vi. where the Sub-contractor suspends, limits or interrupts the Services (in whole or in part) as a result of the acts or omissions of the Reseller or its Customers; or
  - vii. as otherwise set out in any relevant Service Schedule;
- b. following, where reasonably practicable, prior notice to make any change, modification, enhancement, replacement of or additions to any Services in accordance with clause 16.1; and
- c. following, where reasonably practicable, prior notice, to undertake planned Maintenance or testing.

25.2 Any period during which the Services are suspended, interrupted or limited in accordance with clause 25.1 shall not be taken into account in the calculation of any Service's compliance with any applicable Service Levels.

25.3 The Reseller shall reimburse the Supplier in respect of all costs and expenses incurred in the suspension, interruption or limiting and re-commencing of the provision of the Services thereafter where the Services were suspended pursuant to clauses 25.1(a)(iii), 25.1(a)(iv), 25.1(a)(v) or 25.1(a)(vi).

25.4 Any suspension, interruption or limiting of any Service shall not exclude the Supplier's right subsequently to terminate this Master Reseller Agreement or any applicable Service Schedule or Order.

26. Termination for Convenience

26.1 Prior to the expiry of the Initial Period, the Parties shall conduct a review of the terms and operation of this Master Reseller Agreement. Subject to the provisions for early termination in accordance with this Master Reseller Agreement, either Party may terminate this Master Reseller Agreement at any time by at least ninety (90) days' written notice to the other Party, provided that no such termination shall have effect until the expiry of the Initial Period.

26.2 Either party may terminate a Service Schedule or Additional Service Schedule individually at any time in accordance with the terms of that Service Schedule or Additional Service Schedule. Where a Reseller terminates a Service Schedule or an Additional Service Schedule, the Supplier reserves the right to terminate any other Service Schedules and Additional Service Schedules then in force.

26.3 On termination of this Master Reseller Agreement all Service Schedules and Additional Service Schedules shall terminate forthwith. Notwithstanding the termination of a Service Schedule each Order in force at the date of such termination shall nevertheless continue in full force and effect in accordance with the terms of the applicable Service Schedule.

26.4 The Reseller may terminate an Order at any time where a Customer has served notice to terminate or has terminated its contract with the Reseller in relation to the provision of the Services under any particular Order upon giving not less than the Minimum Notice in writing in accordance with and subject to the terms of the applicable Service Schedule.

27. Other Termination Rights

27.1 Without prejudice to any right or remedy either Party may have against the other for breach or non-performance of this Master Reseller Agreement, either Party (the **Terminating Party**) shall have the right, with immediate effect by notice in writing to the other Party (the **Defaulting Party**) to terminate this Master Reseller Agreement, any Service Schedule, any Additional Service Schedule and/or (in the case of termination by the Supplier only) any Order in whole or in part on or at any time where:
- a. the Defaulting Party commits a material breach of any of the terms of this Master Reseller Agreement provided that where such breach is capable of remedy the Defaulting Party has not rectified it within twenty (20) Working Days of receipt of written notice from the Terminating Party giving details of the breach and requiring the Defaulting Party to remedy the breach (and, for the avoidance of doubt, any breach of clause 8.1, 19.1, 19.5, 31, 33, 34 or 35 shall be considered a material breach of this Master Reseller Agreement);
- b. there is a failure to pay a sum which is due and payable under this Master Reseller Agreement:
  - i. which has not been rectified by the Defaulting Party within fifteen (15) Working Days of receipt of written notice requiring payment; or
  - ii. on three (3) or more occasions in separate payment months in a twenty-four (24)

month period providing notices are served on the Defaulting Party upon the first two (2) occasions in accordance with clause 27.1(b)(i);

c. the Defaulting Party passing a resolution for its winding up or a court of competent jurisdiction making an order for the Defaulting Party to be wound up or dissolved or the Defaulting Party being otherwise dissolved;

d. any meeting of creditors of the Defaulting Party is held, or any steps are taken or any arrangement, compromise or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) is formally proposed or entered into by or in relation to the Defaulting Party;

e. a supervisor, receiver, administrator, administrative receiver or other encumbrancer takes possession of or is appointed over or any distress, execution or other process is levied or enforced (and not discharged within five (5) Working Days) upon the whole or a substantial part of the undertaking or assets of the Defaulting Party, or any steps are taken to do the same;

f. a petition is presented or a meeting is convened or any other step is taken for the purpose of considering a resolution for the making of an administration order against, or for the appointment of an administrator in respect of, or for, the winding-up, bankruptcy or dissolution of the Defaulting Party (otherwise than in the course of a reorganisation or restructuring previously approved in writing by the Defaulting Party), and such action or step is not withdrawn or revoked within twenty (20) Working Days;

g. any event analogous to those set out in clauses 27.1(c) to 27.1(f) in another jurisdiction;

h. the Defaulting Party threatens to or ceases to carry on any part of its business which has a material effect on its ability to perform its obligations under this Master Reseller Agreement or any steps are taken to do any of the same, or it becomes unable to pay its debts when they become due or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986, or any creditor of the Defaulting Party becomes entitled to declare any debt due and payable prior to its stated maturity, or any mortgage, charge, licence or other security interest which may for the time being affect any of the assets of the Defaulting Party becomes enforceable; or

i. the Defaulting Party is affected by a Force Majeure Event for three (3) months or more.

27.2 The Supplier may terminate this Master Reseller Agreement, any Service Schedule, any Additional Service Schedule and/or any Order in whole or in part with immediate effect by written notice to the Reseller:

a. if the Supplier's or a Sub-contractor's legal authorisation or capability to provide the Services is terminated or revoked, if it is determined that the provision of the Services, or any part of them is in violation of any Applicable Law, or if there is a decision that adversely affects the way the Supplier supplies the Services, in which event the Supplier shall give the Reseller the maximum period of notice practicable under the circumstances;

b. if the Supplier or a Sub-contractor is directed by an Authority to cease to provide any of the Services or the Reseller is prohibited from providing any of the Services by an Authority;

c. if as a result of the acts or omissions of the Reseller or its Customers, a Sub-contractor terminates a supply of the Services (in whole or in part);

d. if the Reseller or a Customer has, in the Supplier's reasonable opinion, committed fraud or engaged in any fraudulent or unauthorised use (whether actual or attempted) of the Services, any Service Equipment or any software or systems of the Supplier, a Sub-contractor or any other third party connected with or used in the provision of the Services;

e. if the Reseller, or its respective officers or employees are prosecuted for a criminal offence relating to the Services or a service provided by any Sub-contractor (or analogous provider);

f. if the Reseller fails to achieve any of the Sales Performance Criteria or the Supplier does not receive an Order from the Reseller within six (6) months of the Commencement Date;

g. if provision of any of the Services would give rise to or cause a breach of any code of practice and other regulatory instruments applicable to the Supplier's or a Sub-contractor's provision of the Services or any order or direction of an Authority;

h. the Reseller being an individual dies or, by reason of illness or incapacity (whether mental or physical) is incapable of managing his or her own affairs or becomes a patient under any mental health legislation;

i. if the Services (or any part thereof) are no longer provided to the Supplier by a Sub-contractor for any reason subject to the Supplier giving the Reseller as much notice of discontinuance as is practicable under the circumstances; and

j. as otherwise provided for in a relevant Service Schedule.

27.3 The Supplier may terminate this Master Reseller Agreement, any Service Schedule, any Additional Service Schedule and any Order in whole or in part with immediate effect by written notice to the Reseller at any time within a six (6) month period of the Supplier becoming aware there has been a Change of Control or purported assignment by the Reseller of its rights or transfer of its obligations under this Master Reseller Agreement or any individual Service Schedule or Additional Service Schedule to any person which:

a. in the reasonable opinion of the Supplier carries on or is engaged in a business which competes with any substantial or material business of the Supplier or any Affiliate;

b. has, in the previous three (3) years been involved in a material dispute with the Supplier or any Affiliate including by way of any threatened law suit, mediation or arbitration; or

c. in the reasonable opinion of the Supplier, does not have sufficient financial standing or might cause the Supplier to be exposed to a greater risk from the Reseller's performance, or failure to perform, than before the change.

28. Consequences of Termination

28.1 On termination of this Master Reseller Agreement or any part thereof:

a. all outstanding undisputed Charges and other amounts under this Master Reseller Agreement or relevant to the terminated part and which are due at the date of termination shall be payable by the Reseller (with any disputed Charges being addressed in accordance with clause 18.4);

b. the Reseller shall cease to use the Services and Service Equipment relevant to those terminated parts and permit or procure permission for the Supplier or its sub-contractors to gain access to the Equipment Locations at a time to be agreed between the Parties for the purpose of removing the Service Equipment which is not required for the receipt of any remaining Services, and the Supplier or its sub-contractors shall promptly undertake such removal;

c. each Party shall promptly return such documents as are in its possession and which are the property of or contain Confidential Information of the other Party to the extent that they are not required for the on-going provision of Services pursuant to this Master Reseller Agreement;

d. the Reseller shall, to the extent that it is no longer required for the on-going provision of Services pursuant to this Master Reseller Agreement, immediately cease to hold itself out as being connected with the Supplier and shall forthwith remove and cease to use all signs, stationery, advertising and other material suggesting that it is authorised to offer or resell the Services;

e. the Reseller shall immediately cease to use the Trade Marks to the extent that they are not required for the on-going provision of Services pursuant to this Master Reseller Agreement and, if applicable, will consent to the cancellation of the Reseller as a registered user of any of the Trade Marks; and

f. the Parties shall each comply with any exit plan which may be agreed between the Parties and the Parties shall co-operate to ensure an orderly handover of the Services to the Reseller and/or its replacement supplier. The Supplier shall be entitled to levy charges for compliance with any exit plan at the Supplier's (and where assistance of a Sub-contractor is required, at the Sub-contractor's) then current applicable rates.

28.2 Where:

a. in accordance with clause 26.2 an Additional Service Schedule is terminated by the Reseller during any initial period as set out in the relevant Additional Service Schedule; or

b. in accordance with clause 26.4 an Order is terminated by the Reseller during the relevant Minimum Term or a Renewal Term (if applicable); or

c. in accordance with clause 27 and Order is terminated by the Supplier during the relevant Minimum Term or a Renewal Term (if applicable),

the Reseller shall pay on demand any and all Early Termination Charges as specified in the relevant Service Schedule or Additional Service Schedule.

28.3 Where this Master Reseller Agreement, any Service Schedule, any Additional Service Schedule or any Order is terminated in whole or in part by the Supplier pursuant to: (i) clauses 27.1(c) to 27.1(h); or (ii) clauses 27.2(b), 27.2(c) or 27.2(d) because of the acts or omissions of the Reseller, the Supplier or a third party nominated by the Supplier shall be entitled, at the Supplier's discretion, to offer to continue to supply the Services to each Customer as at the date of such termination in place of the Reseller, subject to each Customer agreeing to the Supplier's then current standard terms of business and to being responsible for payment directly to the Supplier (or its nominated third party) for all charges associated with the provision and use of such Services. The Reseller agrees to provide to the Supplier (or its nominated third party) all Customer Details as the Supplier requires for this purpose and to work with the Supplier to ensure any transition from the Reseller to the Supplier directly is as smooth as possible.

28.4 Any termination of this Master Reseller Agreement or part thereof shall be without prejudice to any other rights or remedies a Party may be entitled to (whether under this Master Reseller Agreement or in accordance with Applicable Law). Termination does not affect any accrued rights or liabilities of either Party.

28.5 Any termination of this Master Reseller Agreement or part thereof shall not prejudice or affect the continued existence and validity of the rights and obligations of the Parties under those clauses which are expressed or by implication are intended to survive termination and any provisions of this Master Reseller Agreement.

29. Provision of Information, Audits and Records

29.1 Both Parties shall promptly provide each other with all information which may reasonably be required from time to time to enable the Parties to proceed uninterruptedly with the performance of their obligations under this Master Reseller Agreement. The Parties shall use all reasonable endeavours to ensure that any information provided is accurate and not misleading.

29.2 The Reseller shall:

a. provide the Supplier with such reports as it may reasonably request on the following at reasonable intervals specified by the Supplier:
   i. generic details of Customer migration to and from the Services;
   ii. a sales forecast; and
   iii. all other information (whether financial, marketing, Customer related or otherwise) reasonably requested by the Supplier in relation to the performance of this Master Reseller Agreement or otherwise required by a Service Schedule or Additional Service Schedule;

b. meet with the Supplier from time to time upon request (and in any event at the end of each quarter from the Commencement Date) for the purposes of reviewing the resale of the Services and the Reseller's performance of this Master Reseller Agreement;

c. keep up-to-date, full and proper records showing all enquiries, transactions, orders, payments and proceedings relating to the Services and this Master Reseller Agreement in accordance with Applicable Law for a period of up to six (6) years following expiration or termination of this Master Reseller Agreement or such longer period as required by Applicable Law; and

d. permit the Supplier or anyone authorised by the Supplier:
   i. to inspect, audit, list and take and retain copies of the whole or any part of the Reseller's procedures, records and Orders in relation to the Services at any time upon reasonable notice for a period of up to six (6) years following expiration or termination of this Master Reseller Agreement; and
   ii. access to Customers to determine levels of service delivered by the Reseller.

30. Intellectual Property Rights

30.1 The Reseller agrees and acknowledges that all Intellectual Property Rights and other rights in the Services and Materials and the Trade Marks shall remain the property of the Supplier or its licensors.

30.2 The Supplier grants the Reseller a non-exclusive, royalty free licence to use such Intellectual Property Rights in the Services and Materials as is necessary solely for the purposes of reselling the Services or as otherwise permitted under this Master Reseller Agreement.

30.3 Subject to clause 30.4, the Supplier grants the Reseller a non-exclusive, non-transferable, revocable licence to use the Trade Marks to promote the Services, provided always that the Reseller shall comply with such written instructions or directions as may be issued or provided by the Supplier from time to time, as to the manner, format and context in which the Trade Marks may be used by the Reseller and provided further that such licence is personal to Reseller and does not include any right to grant sub-licences.

30.4 Any use by the Reseller of the Trade Marks or the company name, company domain or domain name or any photograph or representation of any building of the Supplier or a Sub-contractor must be approved in writing by the Supplier prior to its intended use, except to the extent permitted by Applicable Law.

30.5 The Reseller shall immediately notify the Supplier if it becomes aware of any unauthorised use of the Services or Materials or any Intellectual Property Rights in the Services or Materials or the Trade Marks. The Reseller shall provide the Supplier with all assistance reasonably requested to assist in taking all steps to maintain or defend such Intellectual Property Rights and Trade Marks.

30.6 To the extent the Supplier reasonably requires a licence to use any Intellectual Property Rights owned or used by the Reseller to perform its obligations or exercise its rights under this Master Reseller Agreement, the Reseller grants the Supplier a non-exclusive, royalty-free licence to use, operate, copy and modify such Intellectual Property Rights, solely for the purposes of performing its obligations and exercising its rights under this Master Reseller Agreement.

31. Confidentiality

31.1 Where either Party (the **Disclosing Party**) discloses Confidential Information to the other (the **Receiving Party**), the Receiving Party shall:

a. not disclose Confidential Information except as permitted under this Master Reseller Agreement;

b. only disclose Confidential Information to those persons who are directors, employees, officers, professional advisers, agents or sub-contractors of the Receiving Party (an **Authorised Person**) and who need to know the Confidential Information for the purposes of this Master Reseller Agreement and ensure such persons are aware of the confidential nature of such information; and

c. ensure that Confidential Information within its control is kept securely protected against theft or unauthorised access, and in any event treat its security, integrity and confidentiality with a reasonable level of care and not with any less care than it uses in relation to its own confidential information of a similar kind.

31.2 The Receiving Party shall promptly notify the Disclosing Party if it becomes aware of any unauthorised use or disclosure by any Authorised Person or any other person of any Confidential Information.

31.3 The Receiving Party may disclose any Confidential Information to any Authority, law enforcement agency or other third party if it is required to do so by Applicable Law. In such circumstances:

a. the Receiving Party shall (provided that it is practical and lawful to do so) notify the Disclosing Party in writing as soon as practicable before the disclosure;

b. the Parties shall use all reasonable endeavours to consult with each other with a view to agreeing the timing, manner and extent of the disclosure; and

c. the Receiving Party shall in any event use all reasonable endeavours to obtain written confidentiality undertakings in its favour from the third party.

31.4 The undertakings and other provisions of this clause 31 shall not apply to any information or material which the Receiving Party can prove:
a. is in the public domain other than as a result of breach of this Master Reseller Agreement or any separate confidentiality undertaking between the Parties;
b. is received, free of any obligation of confidence, from a third party which itself was not under any obligation of confidence in relation to that information;
c. information that was developed or created independently by or on behalf of the Receiving Party; or
d. is no longer commercially sensitive.

31.5 Each Party acknowledges that damages alone may not be an adequate remedy in the event of breach by the other Party of the provisions of this clause 31. Accordingly, it is agreed that the Disclosing Party shall be entitled, without proof of special damages, to seek an injunction or other interim remedy for any threatened or actual breach of this clause 31, without prejudice to any other rights and remedies which that Party may have.

31.6 The undertakings and other provisions of this clause 31 shall continue for the longer of five (5) years after the termination or expiry of this Master Reseller Agreement or until one of the circumstances in clause 31.4 such Confidential Information is no longer commercially sensitive.

32. Publicity

32.1 The Reseller shall not make any public announcement in respect of the existence of this Master Reseller Agreement and/or subject matter of this Master Reseller Agreement and/or the Services provided under it from time to time or make any reference to the Supplier or a Sub-contractor or the standard and/or quality to which those Services are provided in any marketing or service literature without the Supplier's prior written consent.

32.2 The Supplier may make reasonable references to the Reseller as a reseller of the Services (including use of the Reseller's logo and trade marks) in its reseller lists, advertising and/or promotional literature and other materials. The Supplier may also disclose the existence of this Master Reseller Agreement where such disclosure is reasonably made in the course of providing Services under this Master Reseller Agreement.

33. Data Protection

33.1 For the purposes of this clause 33 "data controller", "data processor", "personal data" and "process" shall have the same meanings as within the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018 or the equivalent in any successive legislation or regulation.

33.2 The Parties agree that they will comply with all Applicable Law in relation to data protection, including the General Data Protection Regulation ((EU) 2016/679) and the Data Protection Act 2018. This clause is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Applicable Law.

33.3 The data controller will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the data processor for the duration and purposes of this agreement.

33.4 To the extent that either Party processes personal data on behalf of the other, the processing Party shall:
a. use any such personal data solely for the purpose of performing its obligations under this Master Reseller Agreement;
b. process the same only in accordance with the other's instructions including by correcting, suppressing, deleting or blocking such personal data from further processing and/or use, if requested by the other Party;
c. take appropriate technical and organisational measures to prevent unauthorised or unlawful processing or, accidental loss or destruction of or damage to such personal data;
d. provide the other Party from time to time such personal data in its possession as the other Party may require within five (5) Working Days, including information as to any specific individual Customer to whom the personal data relates;
e. not process any personal data or cause or allow such data to be processed in any location outside the European Economic Area without the other Party's prior written consent and then only to states and/or processors having in place an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data;
f. not engage another processor without prior written authorisation from the data controller, ensuring that any processor complies with the provisions of this clause 33;
g. ensure that all personnel who have access to andor process personal data are obliged to keep personal data confidential; and
h. maintain complete and accurate records and information to demonstrate compliance with this Clause 33.

33.5 Each Party shall inform the other Party promptly and in any event without undue delay in the event of any unauthorised or unlawful processing of personal data. In the event of any such accidental loss, destruction or damage to personal data, such Party shall: (i) provide the other Party with an explanation as to the cause of the breach and its proposals to remedy such unauthorised or accidental event; and (ii) take all reasonable steps necessary to remedy the breach and to minimise the likelihood of future breach.

33.6 In the event that a Party receives a subject access request from an individual about whom the other Party holds personal data for the purpose of fulfilling its obligations under this Master Reseller Agreement, the receiving party shall promptly forward such request to the other Party.

33.7 The Parties acknowledge that Customer Details are, as between the Supplier and the Reseller the property of the Reseller and the Reseller shall comply with all past, present and future laws relating to data retention. Subject to clause 33.8, the Supplier shall not store, copy, disclose or use such details except as necessary for the performance by the Supplier of its obligations and exercise of its rights under this Master Reseller Agreement and for compliance with Applicable Law.

33.8 Where agreed, the Parties may share Customer Details for marketing purposes and the Reseller shall be responsible for obtaining all necessary Customer consents. Where agreed, the Supplier may share such personal data with a Sub-contractor.

34. Compliance

34.1 The Reseller shall comply with all Applicable Law, regulations, codes and sanctions relating to anti-bribery and anti-corruption including the Bribery Act 2010 and whilst this Master Reseller Agreement is in force, have and shall maintain in place suitable policies and procedures to ensure such compliance and will enforce them where appropriate.

34.2 The Reseller shall comply with all Applicable Law, regulations, codes and sanctions relating to slavery and human trafficking including the Modern Slavery Act 2015 and whilst this Master Reseller Agreement is in force, have and shall maintain in place suitable policies and procedures to ensure such compliance and will enforce them where appropriate.

34.3 The Reseller shall ensure that any person who is associated with the Reseller who is performing services in connection with this Master Reseller Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Reseller in this clause 34.

35. Non-Solicitation

The Reseller shall not during the Term or for a period of twelve (12) months following its termination solicit or otherwise induce any officer, employee, agent or contractor of the Supplier or of any Sub-contractor who provides Services or Additional Services to the Reseller to terminate their employment or engagement with the Supplier or such Sub-contractor.

36. Transfer of Obligations

36.1 The Reseller shall not assign or transfer or purport to assign or transfer any of its rights under this Master Reseller Agreement without the prior written consent of the Supplier (such consent not to be unreasonably withheld or delayed).

36.2 The Supplier may sub-contract any provision of the Services to a Sub-contractor. The Supplier will remain primarily liable for the performance of a Sub-contractor to the same extent as if the Supplier were performing the obligations itself.

37. Notices

37.1 Each notice or communication given under or in relation to this Master Reseller Agreement shall be in writing and shall be delivered by hand or sent by special delivery post or facsimile to the other Party, for the Reseller, at its address or facsimile number set out in the Appointment, and for the Supplier, at its address or facsimile number set out below or in each case to such other address or facsimile number as the receiving Party has previously notified to the sending Party in writing. Notices shall not be deemed to be validly served if sent by email.

FAO: Company Secretary
Nycomm Limited
Agecroft Road, Pendlebury, Swinton, Manchester M27 8SB

37.2 Each such notice shall be deemed to have been served:
a. in the case of by hand and special delivery post, when actually received; or
b. if sent by special delivery post and returned marked gone away or to the like effect, on return of such special delivery mail; or
c. if sent by facsimile, on the second Working Day after the day of transmission provided that the sending party shall have received an error free transmission report in respect of the notice and shall have sent a copy by first class post on the day of transmission.

37.3 The Reseller shall promptly provide the Supplier with:
a. confirmation in writing of any change in name, operating or registered address or any key personnel; and
b. written notice of any Change of Control, together with such additional information as reasonably requested by the Supplier relating to the Change of Control.

38. Severability

38.1 If any provision of this Master Reseller Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Master Reseller Agreement had been executed with the invalid, illegal or unenforceable provision eliminated.

38.2 In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Master Reseller Agreement, the Parties shall immediately commence good faith negotiations to remedy such invalidity.

39. Waiver

39.1 The failure of either Party to insist upon strict performance of any provision of this Master Reseller Agreement, or the failure of either Party to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this Master Reseller Agreement.

39.2 A waiver of any default by either Party shall not constitute a waiver of any subsequent default.

39.3 No waiver of any of the provisions of this Master Reseller Agreement shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of this Master Reseller Agreement.

40. Entire Agreement

40.1 This Master Reseller Agreement constitutes the entire agreement between the Parties and supersedes any prior agreements understandings and arrangements between them, whether oral or in writing, relating to its subject matter.

40.2 Each Party acknowledges and agrees that in entering into this Master Reseller Agreement it has not relied on (and shall not have any remedies in respect of) any representation, undertaking or promise, whether made innocently or negligently, that is not set out in this Master Reseller Agreement provided that neither Party excludes its liability for fraud or fraudulent misrepresentation.

41. Relationship and Status

Nothing in this Master Reseller Agreement shall or is intended or shall be construed to create a relationship of agency or partnership between the Parties.

42. Third Party Rights

42.1 Subject to Clause 42.2, this Master Reseller Agreement shall not confer any rights upon any person who is not a Party to this Master Reseller Agreement whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

42.2 Any Nycomm Group Company may enforce any of the terms of this Master Reseller Agreement which are expressly or impliedly intended to benefit it.

42.3 The rights of the Parties to rescind or vary this Master Reseller Agreement are not subject to the consent of any other person.

43. Limitation Period

The Reseller shall bring any legal proceedings against the Supplier arising from this Master Reseller Agreement within twelve (12) calendar months of the date on which it first became aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability or within the relevant period in accordance with Applicable Law, whichever is earlier.

44. Dispute Resolution

44.1 If a dispute arises out of or in connection with this Master Reseller Agreement or the performance, validity or enforceability of it (a **Dispute**) then the Parties shall follow the procedure set out in this clause 44:
a. either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (a **Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, senior managers of the Parties shall attempt in good faith to resolve the Dispute;
b. if the senior managers of the Parties are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to directors of

the Parties who shall attempt in good faith to resolve it; and

c. if the directors of the Parties are for any reason unable to resolve the Dispute within thirty (30) days of it being referred to them, the parties may attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (an **ADR Notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR Notice should be sent to CEDR Solve. The mediation will start not later than thirty (30) days after the date of the ADR Notice.

44.2 The commencement of mediation shall not prevent the Parties commencing or continuing court proceedings in relation to the Dispute under clause 45.2.

45. Governing Law and Jurisdiction

45.1 This Master Reseller Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

45.2 Subject to clause 44, the Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Master Reseller Agreement or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE 1

Definitions and Interpretation

1. Definitions

1.1 For the purposes of this Master Reseller Agreement the following terms shall have the following meanings:

Additional Service Schedule
the service schedule (together with any schedules or appendices contained therein) agreed between the Parties and appended to this Master Reseller Agreement from time to time regarding the provision of the Additional Services;

Additional Services
any ancillary or complementary services offered by the Supplier to the Reseller from time to time;

Affiliate
any individual, corporation, limited or unlimited liability company, general, limited partnership, limited liability partnership, unincorporated association, trust or any other person or entity which directly or indirectly through one or more intermediaries controls or is controlled by, or is under common control with the Supplier, and for this purpose, "control" shall mean the ability to control the commercial decisions of the other entity;

Applicable Law
the laws of the UK and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which touch or concern the provision of the Services including the Communications Act 2003, the Data Protection Act 2018, the Regulation of Investigatory Powers Act 2000 and all regulations relating to the marketing and supply of the Services;

Appointment
the appointment of the Reseller at the front of these Terms of Resale;

Authority
a regulatory or other competent authority including but not limited to the emergency services, HM Revenue and Customs, Trading Standards and/or Ofcom and their successors from time to time;

The Supplier
the Supplier, Nycomm Limited, a company registered in England and Wales (company number 01876587) with its registered office at Agecroft Road, Pendlebury, Swinton, Manchester M27 8SB;

Bond
an amount of security to be paid by the Reseller in accordance with clause 19;

Change Control Procedure
the procedure set out in Schedule 2;

Change of Control
a change in the management, ownership or control of the Reseller whereby a person (or persons acting in concert) obtains the power to secure that the affairs of the Reseller are conducted directly or indirectly in accordance with the wishes of that person (or persons acting in concert) whether by:

a. being the beneficial owner of more than 50% of the issued share capital of or of the voting rights in the Reseller;
b. having the right to appoint or remove a majority of the directors; or
c. otherwise controlling the votes at board meetings of that company by virtue of any powers conferred by the articles of association, any shareholders' agreement or any other document regulating the affairs of the Reseller;

Charges
the charges (excluding VAT and other taxes or duties applicable thereto) payable by the Reseller to the Supplier for the provision of the Services and any Additional Services,

Commencement Date
the date on which this Master Reseller Agreement comes into effect as stated in the Appointment;

Confidential Information
any and all information disclosed by one Party to the other in connection with this Master Reseller Agreement which is marked 'confidential' or which might reasonably be supposed to be confidential. Amongst other things, this shall include any and all know-how, Intellectual Property Rights, documentation and information, whether commercial, financial, technical, operational or otherwise, relating to the business, finances, affairs, products, services, personnel, customers, suppliers or methods of such Party;

Customer
a customer of the Reseller who has successfully contracted with the Reseller to be supplied a Service;

Customer Contract
the contract entered into between the Reseller and the Customer for the provision of the Services;

Customer Details
the name, key contacts, address, contact number, company registration number or equivalent, latest financial accounts and account number of a Customer;

Customer Premises Equipment
any equipment or infrastructure (including but not limited to hardware, software, applications or administrator access) of the Customer required in order to be provided with the Services;

Early Termination Charges
those early termination charges and other costs and charges which are payable by the Reseller for early termination of an Order or Additional Services Schedule in accordance with the relevant Service Schedule or Additional Service Schedule;

Equipment Location
the the Supplier, Reseller or Customer premises where Service Equipment or Customer Premises Equipment is located;

Force Majeure Event
any event the Supplier the reasonable control of a Party including strikes, lock outs, labour disputes (of its own or other employees), acts of God, riots, civil disorder, acts or omissions of any other Party, malicious damage, compliance with any legislation or direction of any Authority, accident, power failure, fire, flood, storm, mandatory annual network freezes between Christmas and New Year by any Sub-contractor or failure by any statutory undertaking, utility company, telecommunications provider (other than the Supplier), Authority, sub-contractor or supplier which directly or indirectly causes that Party to be unable to comply with any of its obligations under this Master Reseller Agreement;

Good Industry Practice
the exercise of that degree of skill and care as would be expected from a reasonably competent service provider engaged in the provision of similar services in the Territory under the same or similar circumstances;

Group
in relation to a company, that company, any subsidiary or holding company from time to time and any subsidiary from time to time of a holding company of that company. Holding company or subsidiary means a holding company or subsidiary (as the case may be) as defined in section 1159 of the Companies Act 2006;

Initial Period
the period commencing on the Commencement Date and expiring after the period set out in the Appointment;

Intellectual Property Rights
all patents, trade marks, design rights (whether registered, registrable or otherwise and including, applications for any of the foregoing), copyright (including rights in software), database rights, trade or business names and all rights of a similar nature anywhere in the world;

KPI's
the key performance indicators against which performance of each Parties' obligations under this Master Reseller Agreement may be measured;

Maintenance
any work carried out by or on behalf of the Supplier in order to upgrade repair or maintain the Services;

Master Reseller Agreement
this agreement including the Appointment, these Terms of Resale, the Schedules, the Service Schedules and the Additional Service Schedules in force from time to time and any documents referred to within the same (excluding the Reseller Services Guide which, for the avoidance of doubt, shall not be legally binding) together with any changes to any of the same made in accordance with their terms;

Materials
all training and other materials issued or provided by the Supplier in the provision of or connected to the Services including the Service Literature;

Minimum Notice
the minimum period of notice required to terminate an Order as set out in the relevant Service Schedule;

Minimum Term
a minimum or initial period in respect of each of the Services commencing on the relevant Service Commencement Date as may be stipulated in the relevant Service Schedule or Order, such period to be deemed to be twelve (12) months in the absence of contrary provisions in the relevant Service Schedule or Order;

Nycomm Group Company
In relation to the Supplier, any member of its Group;

Onboarding Process
the process whereby the Reseller is given the ability to resell the relevant Services as required by the Supplier;

Order
each individual order for Services to be supplied to the Reseller for the benefit of a Customer in accordance with and incorporating the terms of this Master Reseller Agreement;

Party
either of the Supplier or the Reseller, and Parties shall mean both the Supplier and the Reseller together;

Portal
an online portal or tool which may be made available by the Supplier or a Sub-contractor by which the Reseller may manage its Customers, including, without limitation, place Orders, view Customer information, obtain Order status reports and to provision support services;

Renewal Term
any further period of commitment after the Minimum Term in respect of an Order which is agreed in writing or otherwise as set out in the Service Schedule or Order;

Reseller
the reseller stated in the Appointment;

Reseller Services Guide
a non-binding manual which identifies the operational processes and interfaces between the Parties in respect of each Services (including, by way of example, how Orders should be placed, how to report Service Faults and the provision of Support by the Supplier to the Reseller in respect of the Services) as updated and amended by the Supplier from time to time;

Sales Performance Criteria
the sales targets set out in the relevant Service Schedule or as otherwise agreed from time to time;

Schedule
a schedule of these Terms of Resale;

Service Commencement Date
the date on which any relevant Service Schedule comes into effect in accordance with its terms;

Service Credits
a repayment of a certain proportion of Charges in respect of the Supplier failing to meet specified Service Levels (if any) as more particularly detailed in each Service Schedule;

Service Equipment
any equipment made available to the Reseller by the Supplier or a Sub-contractor as part of the Services;

Service Fault
a fault with or a failure to provide Services in accordance with the relevant Service Schedule;

Service Levels
those levels of service performance to be achieved by the Supplier as set out in each Service Schedule;

Service Literature
any literature or specifications regarding the use, operation and sale of the Services as notified by the Supplier from time to time in accordance with this Master Reseller Agreement;

Service Schedule
the service schedule (together with any appendices contained therein) agreed between the Parties from time to time regarding the provision of the Services;

Services
the services which the Supplier shall provide to the Reseller and which the Reseller is authorised to resell in the Territory under this Master Reseller Agreement, as described in the relevant Service Schedule, pursuant to an Order;

Standard Terms of Sale
the Supplier' standard terms of sale as notified by the Supplier from time to time;

Sub-contractor
a sub-contractor of the Supplier involved in the provision of the Services;

Support
the support services for the relevant Services in accordance with each Service Schedule and delivered as set out in the Reseller Services Guide;

Taxes
any form of taxation (direct or indirect), levy, duty, charge, contribution or impost of whatever nature imposed by a local, governmental or other body or authority in the United Kingdom or elsewhere;

Term
the term of this Master Reseller Agreement as defined in clause 2.1;

Terms of Resale
the terms and conditions of resale detailed in the main body of this document;

Territory
the United Kingdom or such other territory in which the Services may be provided and to which the Reseller may resell the Service as set out in the relevant Service Schedule;

Trade Marks
trade marks and service marks of the Supplier or any Sub-contractor as notified to the Reseller in writing from time to time by the Supplier;

Working Day
any day which is not a Saturday, a Sunday or any public holiday or bank holiday in the United Kingdom;

Working Hours
between 8.30 am and 5.30 pm on Working Days; and

Year
a period of twelve (12) consecutive months commencing on the Commencement Date or any anniversary thereof save that the last year shall end on the termination or expiry of this Master Reseller Agreement.

2. Interpretation

2.1 In this Master Reseller Agreement:
- a. references to a person shall include individuals, bodies corporate, unincorporated associations and partnerships and any other person having legal capacity and shall include the successors and permitted transferees and assigns of such persons;
- b. references to the singular includes the plural (and vice versa);
- c. references to the masculine includes the feminine (and vice versa), and the neuter includes the masculine or the feminine (and vice versa);
- d. headings and tables of contents are for convenience only and shall not affect the interpretation or construction of this Master Reseller Agreement;
- e. save where expressly stated otherwise, references in these Terms of Resale to clauses and Schedules are to the clauses and Schedules of these Terms of Resale and references to paragraphs and appendices in a Schedule are to the paragraphs and appendices of that Schedule;
- f. references to "includes" or "including" shall mean without limitation;
- g. references to the holder of any office or position of responsibility include references to such person as is from time to time appointed to exercise the functions of the holder;
- h. references to items as listed or specified in this Master Reseller Agreement shall include references to those items as removed, replaced, amended or added to from time to time under the terms of this Master Reseller Agreement;
- i. references to "documents", "records", "books" and "data" shall include information contained in computer programs and disks and records or other machine readable form or records kept otherwise than in a legible form but capable of being reproduced in a legible form;
- j. any word or phrase having a customarily accepted meaning within the telecommunications industry within the context in which it is used in this Master Reseller Agreement shall have that meaning unless otherwise expressly agreed by the Parties in writing; and
- k. any undertaking by a Party not to do any act or thing includes an undertaking not to allow, cause or assist the doing of that act or thing.

SCHEDULE 2

Change Control Procedure

1. Principles

1.1 Where either Party sees a need to change this Master Reseller Agreement or any Service (a **Change**), the Reseller may at any time request, and the Supplier may at any time recommend, such Change only in accordance with the Change Control Procedure set out in paragraph 2 of this Schedule.

1.2 Until such time as a Change is made in accordance with the Change Control Procedure, the Parties shall, unless otherwise agreed in writing, continue to perform this Master Reseller Agreement and/or the applicable Service in compliance with its terms prior to such Change.

1.3 Any discussions which may take place between the Parties in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party. Any work undertaken by either Party which has not been agreed in accordance with the provisions of this Schedule 2, shall be undertaken entirely at the expense and liability of that Party.

2. Procedures

2.1 Discussion between the Parties concerning a Change shall result in any one of the following:
- a. no further action being taken; or
- b. a request to change this Master Reseller Agreement or the Services by the Reseller; or
- c. a recommendation to change this Master Reseller Agreement or the Services.

2.2 Where a written request for an amendment is received from the Reseller, the Supplier shall, unless otherwise agreed, submit two (2) copies of a record of the requested change in the form of the change request note template in Appendix A (**a Change Control Note**) signed by the Supplier to the Reseller in accordance with the timescales set out in Table 1 below.

2.3 A recommendation to amend this Master Reseller Agreement or the Services by the Supplier shall be submitted directly to the Reseller in the form of two (2) copies of a Change Control Note signed by the Supplier at the time of such recommendation. The Reseller shall give its response to the Change Control Note within the timescales set out in the table below.

Change Category	Meaning	Response Time
Standard	Any change which may alter the scope of the Services or the charges i.e. addition of a new Service.	Five (5) Working Days from receipt
Business Critical	The change may be business critical	Two (2) Working Days from receipt

2.4 Each Change Control Note shall at a minimum, specify:
- a. whether the Change is standard or business-critical;
- b. the originator and date of the request or recommendation for the Change;
- c. the reason for the Change;
- d. full details of the Change, including any specifications;
- e. the price, if any, of the Change;
- f. a timetable for implementation and any proposals for acceptance of the Change;
- g. a schedule of payments if appropriate;
- h. details of the likely impact, if any, of the Change on other aspects of this Master Reseller Agreement including:
  - i. the timetable for the provision of the Change;
  - ii. the personnel to be provided;
  - iii. the Charges;
  - iv. the training to be provided;
  - v. working arrangements; and
  - vi. other contractual issues;
- i. the date of expiry of validity of the Change Control Note; and
- j. provision for signature by the Reseller and the Supplier.

2.5 For each Change Control Note submitted by the Supplier, the Reseller shall, within the period of the validity of the Change Control Note:
- a. allocate a sequential number to the Change Control Note; and
- b. evaluate the Change Control Note and, as appropriate:
  - i. request further information; or
  - ii. arrange for two (2) copies of the Change Control Note to be signed by or on behalf of the Reseller and return one of the copies to the Supplier; or
  - iii. notify the Supplier of the rejection of the Change Control Note.

2.6 Neither Party shall unreasonably refuse a Change Control Note and the Reseller shall use all reasonable endeavours to agree any proposed the Supplier Change where the Supplier is required to change its approach to the performance and observance of the Services due to Applicable Law.

2.7 A Change Control Note signed by the Reseller and the Supplier shall constitute an amendment to this Master Reseller Agreement.

Section 1 - to be completed by Party requesting a change	
Request made by: (delete as applicable)	**The Supplier / Reseller**
Reseller details:	**Reseller Name:** **Registered Number:** **Address:**
Change request reference:	**Format**: [Date]-[Change request number (sequentially)]
Date of request:	
Date of expiry / validity of Change Control Note:	
Originator contact:	**Name:** **Title:** **Contact Number:** **Email:**
Summary of Change: (attach additional information if required, including amendments to specific provisions and specifications)	
Reason for Change:	
Summary of likely impact: (attach additional information if required)	
Timetable to implement Change: (attach additional information if required)	
Cost / price of Change: (including es, if any and any schedule of payments)	
Change category: (delete as applicable)	**Standard / Business Critical**
Documents affected:	

Section 2 - to be completed by the Party receiving original request for a Change	
The Party receiving the request for Change will review the request and then may agree to the Change, reject the Change or re-issue the relevant Change for the other Party's approval and signature. Re-issued Changes will be issued with the original Change request reference.	
Change re-issued:	
Date re- issued:	
Notes:	

This Change is issued subject to the terms and conditions of the Master Reseller Agreement between The Supplier and the Reseller set out above.

Accepted for and on behalf of the Reseller		**Accepted for and on behalf of The Supplier**	
Signature		**Signature**	
Name		**Name**	
Date		**Date**	