

TERMS & CONDITIONS

1. CONTRACT DEFINITIONS

This Agreement is between Annodata and the Customer, each a Party ("Party") and together the Parties ("Parties"). Unless otherwise stated all terms in this Contract are as defined below:

"Act"	Act means the Communications Act 2003;
"Additional Services"	means any Services requested by the Customer after the commencement date of this Contract which Annodata agrees to provide;
"Agreement"	means this Agreement which is subject to and governed by these terms and conditions made between The Parties and taking effect upon acceptance by Annodata of the Agreement as evidenced by the opening of a Annodata Link Account;
"Annodata"	means Annodata Ltd whose registered office is at The Maylands Building, Maylands Avenue, Hemel Hempstead, Herts, HP2 7TG and which expression shall, where the context so requires, include its successors and assigns and any Associated Company thereof;
"Annodata Access Equipment"	means call routing apparatus supplied or procured by Annodata (including without limitation any BT equipment);
"Annodata Link Account"	means the account opened by Annodata in the name of the Customer; and Annodata (Link) Network means the telecommunications networks of Annodata's chosen suppliers from time to time.
"Artificial Inflation of Traffic"	means a situation where the flow of calls to any particular Revenue Share Service is as a result of any activity by or on behalf of the Customer which is disproportionate to the flow of calls which would be expected from good faith commercial practice and usage of the Annodata (Link) Network; Associated Company means any subsidiary or holding company of Annodata or other associated company as defined by Sections 736 and 736A of the Companies Act 1985;
"Associated Company"	means a company or organisation which is part of the same group of which Annodata is owned by.
"Authorised Person(s)"	means an employee or subcontractor of Annodata;
"Broadband Service"	means the provision of a high speed internet access,
"Broadband Circuit"	means a connection between a Site and the underlying network, which carries data in both directions using a broadband protocol;
"Broadband Customer Equipment"	means equipment (including any software) which is used by a Customer to connect to the broadband services offered by Annodata from time to time;
Broadband Services	means any broadband services provided or procured by Annodata from time to time;
"BT"	means British Telecommunications plc or Openreach and any relevant subsidiary of such company;
"Cancellation Charge"	Means the charge due on cancellation of the Agreement for Customer's breach.
"Customer"	means the person, company, body corporate or other entity or association, named in this Agreement and is accepted by Annodata and for whom Annodata has opened a Annodata Link Account;
"Agreement"	means this Agreement comprising the front page of this document detailing the commercial terms agreed between the Parties and these definitions and terms and conditions;
"Discount"	means the amount at which any of the Services are provided by Annodata to the Customer during the Contract at less than the full rate. The amount of such discount having been supplied in writing to the Customer and/or inserted on the Customer Contract prior to any of the Services commencing as Discount Services;
"Discount Services"	means any Services provided by Annodata to the Customer from time to time and not charged for by Annodata from time to time or charged at a discount;
"Event of Default"	means an event or occurrence which is beyond the reasonable control of either Party, including (without limitation) the following: Acts of God, war, explosions, fires, floods, tempests, earthquakes, disease or pandemic, insurrection, riot, civil, disturbance, rebellion, strike, lock-out or labour disputes (but not a strike, lock-out or labour dispute specific to the Party relying on the event to excuse non-performance of its obligations under this Agreement), interruption or failure of utility service including to electric power, gas, water, internet or telephone service;
"Extended Term"	means a period of time following the expiry of the Minimum Term, as more particularly defined in Condition 9.2;
"Force Majeure Event"	means an event or occurrence which is beyond the reasonable control of either Party, including (without limitation) the following: Acts of God, war, explosions, fires, floods, tempests, earthquakes, disease, insurrection, riot, civil, disturbance, rebellion, strike, lock-out or labour disputes (but not a strike, lock-out or labour dispute specific to the Party relying on the event to excuse non-performance of its obligations under this Agreement), interruption or failure of utility service including to electric power, gas, water, internet or telephone service;
"Gamma"	means Gamma Telecom Limited, Gamma Business Communications Limited, Gamma Network Solutions Limited or associated businesses in the Gamma Communications plc group.
"Horizon"	means a product offered by Gamma Telecom Limited as part of the services
"Line"	means a connection to a wholesale carriers network;
"Line Rental Service"	means the services provided by Annodata in procuring Lines for the Customer;
"Least Cost Routing"	Software means software installed on a telephone system which automatically enables the routing of calls via different telephone operators;
"Minimum Term"	means the minimum duration of the Contract, which unless otherwise expressly stated on the Customer Contract shall be 36 months from the date the Customer first starts to receive the Services;
"Revenue Share Service"	means a service (including but not limited to 09 and 08 telephone number) where Annodata pays to the Customer an element of the conveyance charges which Annodata receives for calls to such service;
"Services"	means supply or re-routing of the Customers telecommunications including without limitation all calls, voice, fax, line rentals, non-geographic numbers, data traffic, ADSL and broadband over the Annodata (Link) Network and Services shall be deemed to include Discount Services where appropriate and any other services provided by Annodata to the Customer from time to time;
"Services Literature"	means literature specific to the Services and other associated services existing from time to time;
"Site"	means a location at which Annodata agrees to provide any Service;
"User"	means any individual or company permitted by the Customer to use the Services;

2. THE SERVICES

- 2.1. The Customer shall complete, sign and return the Agreement to Annodata prior to Annodata agreeing to provide the Services. Where the Customer has requested the Services by telephone the continued use of the Services will amount to their acceptance of the Agreement. The Customer may only place an order for Services upon terminating their contract with their existing provider. If the Customer requests

any Additional Services, the Customer acknowledges that such Additional Services shall, unless otherwise expressly stated, be provided by Annodata upon and subject to the Agreement and the definition of Services shall be deemed to include any such Additional Services. The Services Literature and any other instructions regarding the use of the Services and the Annodata (Link) Network as may be notified to the Customer by Annodata from time to time shall be complied with promptly and such literature and instructions shall be deemed to form part of the Contract. The Services and the Annodata (Link) Network will only be used in accordance with the Contract. Only the Customer and Users shall use the Services and the Annodata (Link) Network and no other person shall be suffered or permitted to use the same. Annodata shall be entitled to alter any access or authorisation number or method of accessing the Services from time to time and may reprogram the Customers equipment as a result. Annodata shall use all the reasonable care and skill of a competent telecommunications provider to provide the Customer with the Services throughout the term of the Agreement. Annodata shall be at liberty, where necessary, to improve, update or upgrade the Services or alter the provision of the Services without any notice to the Customer provided such alteration does not result in a material adverse change to such Services save that Annodata may change the conditions or service levels relating to the Service (which may have a materially adverse change to such Services) in order to reflect contractual changes imposed upon Annodata by its suppliers (including without limitation BT) or any decision, request by or change in the regulatory regime by the relevant regulatory authorities by giving at least 30 days written notice to the Customer before the change takes effect.

- 2.2. The Customer undertakes to Annodata to ensure that the Services and the Annodata (Link) Network are not used for; the transmission of any material which is intended to be a hoax call to emergency services or is of a defamatory, offensive, abusive, obscene or menacing character; or otherwise in a manner which constitutes a violation or infringement of the rights of any other party; or otherwise than for the purpose of a telecommunications system; or in a way that does not comply with the terms of any legislation or any codes of practice, regulations or any licence applicable to the Customer or that is in any way unlawful or fraudulent or to the knowledge of the Customer has any unlawful or fraudulent purpose or effect; or in connection with the carrying out of fraud or criminal offence against any other public telecommunications operator; or in any way that constitutes Artificial Inflation of Traffic; or in a way that does not comply with any instructions given by Annodata from time to time; or in a way that in Annodata's reasonable opinion could materially affect the quality of any telecommunications service or other service provided by Annodata or any third party; or to make nuisance calls or spam; or to threaten, harass, stalk, abuse, disrupt or otherwise violate or infringe the rights (including but not limited to copyright, rights of privacy and publicity) of others; or to obtain access, through whatever means, to notified restricted areas of the underlying network; or to send and receive data in such a way or in such amount so as to adversely affect the network (or any part of it) which underpins any Service or to adversely affect other customers of Annodata or of its suppliers; or in a way which (in the reasonable opinion of Annodata) brings the name of Annodata or its supplier into disrepute, or which places Annodata in breach of the Act.
- 2.3. The Customer agrees that at all times during the term of the Agreement it shall: provide access to and a safe working environment at its Sites for any Authorised Persons during the Customers normal working hours and allow the removal, installation and maintenance of Annodata Access Equipment; keep its telecommunications equipment including without limitation the Annodata Access Equipment in good working order and ensure that the equipment complies with all applicable standards and approvals so as to enable Annodata to provide the Services; only use and connect those telephones, ducting, cables, sockets and other equipment to the Annodata (Link) Network that have been approved in advance by Annodata in writing and comply with all the relevant legislation relating to the use of such equipment including the relevant standards required under the Act; provide all reasonable assistance required by Annodata to enable it to provide the Services; inform Annodata by one months prior notice in writing of any premises relocation or change of telephone number(s) on which the Services are registered; and indemnify Annodata fully against all losses, liabilities, costs (including without limitation legal costs) and expenses which Annodata may suffer or incur as a result of any breach of the Customers obligations under the Agreement including without limitation for fraud or misuse of the Services or the Annodata (Link) Network or the Artificial Inflation of Traffic.

3. EXCLUSIVITY, MINIMUM TERM AND ANY EXTENDED TERM

- 3.1. The Customer undertakes to Annodata that for the duration of the Minimum Term and for the duration of any Extended Term it will route all its inbound, non-geographic and outbound calls (including without limitation all its voice, fax and data traffic) via Annodata on an exclusive basis. For the avoidance of doubt the Customer acknowledges and accepts that during the Minimum Term and for the duration of any Extended Term it shall not use any services offered by a third party which are competitive with or substantially similar to the Services. In the event of any breach by the Customer of Conditions 3.2 to 3.4 (inclusive) shall apply.
- 3.2. In the event that the Customer wishes to terminate the Agreement at any time prior either to the expiration of the Minimum Term or any Extended Term, then Annodata, (at its sole discretion) electing to accept such notice or Annodata terminating this Agreement during the Minimum Term or any Extended Term pursuant to Condition 9.3 the Customer shall pay in full an amount equal to the Discount for the period any of the Services have been supplied as Discount Services during the Minimum Term or any Extended Term. 3.3 In the event of the Customer: terminating the Agreement; or attempting to terminate the Agreement; or obtaining any services from a third party which are competitive with or substantially similar to the Services; or receiving notice from Annodata terminating the Agreement pursuant to Condition 9.3 During the Minimum Term or any Extended Term, then the Customer accepts that Annodata shall be entitled to invoice the Customer a cancellation charge which is equal to 30% of the total charges which would have been payable during each month outstanding during the remainder of the Minimum Term or any Extended Term (as relevant) (Cancellation Charge). For the purposes of this Condition.
- 3.3. the Cancellation Charge shall be calculated using: the average of the last three monthly amounts invoiced by Annodata to the Customer prior to the Cancellation Charge becoming payable; or the actual amount payable by the Customer for the Services during the last full calendar month immediately prior to the said breach (whichever is the higher); or where no invoice has been submitted to the Customer prior to the Cancellation Charge becoming payable the amount of the estimated spend (divided by 12 where such estimated spend is based upon a year rather than a month). The amount payable pursuant to this Condition 3.3 is without prejudice to the amounts detailed in Conditions 3.2 and 3.3 which are payable in addition.
- 3.4. If a Line or the provision of a Line Rental Service is cancelled by the Customer during the Minimum Term or any Extended Term then the balance of the rental which would have been paid for the remaining period of the Minimum Term or any Extended Term (as relevant) becomes payable immediately. Where Annodata terminates this Agreement pursuant to Condition 9.3 such termination shall for the purposes of this Condition 3.4 be treated as cancellation by the Customer of the Line Rental Service.

4. SERVICE SPECIFIC CONDITIONS AND ACKNOWLEDGEMENTS

4.1. IP Telephony Services

Annodata provides a range of IP telephony services (IP Telephony Services) which, together with Annodata's traditional voice services, are delivered from an integrated switching, provisioning and billing platform but your calls are carried by Internet Protocol rather than the traditional Public Switched Telephone Network (PSTN); the IP Telephony Services support 999/112 public emergency call services and such calls will be routed to the national emergency call handling agents. However these services do not operate in the same way as PSTN fixed line 999/112 public emergency call services and connection to such services may not be possible in the event of a service outage caused by loss of Customer connectivity to the internet for whatever reason. In such circumstances the Customer should use

their PSTN line to make the emergency call. Furthermore, it may, on occasions, not be possible for emergency services personnel to identify the Customers location and telephone number so this information should be stated promptly and clearly by the Customer when making such a call.

4.2. Broadband Services

- (a) If, in Annodata's opinion any Broadband Customer Equipment fails to comply at any time with the requirements and standards set out by Annodata or is causing disruption to any Service or to other Customers then Annodata may in its absolute discretion disconnect the Broadband Circuit relating to that Broadband Customer Equipment or take such other steps as it judges appropriate to resolve the disruption. In such case, Annodata will inform the Customer.
- (b) The Customer must not use a Broadband Service: to knowingly make available or upload files that contain software or other material, data or information not owned by or licensed to the Customer; or to knowingly make available or upload files that contain a virus or corrupt data; or to falsify the true ownership of software or other material or information contained in a file that the Customer makes available via the Broadband Service; or to publish, post, distribute, disseminate, send, knowingly receive, upload, download, use or reuse material which is abusive, indecent, defamatory, offensive, obscene or menacing, or in breach of copyright, privacy or any other rights; or to deliberately abuse any part of a Annodata Service; or to post or send the same or similar messages in multiple use net or news groups; or to post or send off-topic items to a use net or news group; or to send or provide unsolicited commercial messages or communications in any form; or to falsify user information; or to act in such a way which threatens the integrity or security of any computer system; or with a view to avoiding incurring or paying charges for such usage; or with a view to degrading the use of services by third parties; or to violate general standards of internet conduct and usage such as denial of service attacks, web-page defacement, and port and network scanning; or to disclose passwords; or to violate any restrictions on the size of e-mails; or to forge addresses; or to share network connections in a manner enabling third parties to access and use such connections; or (xviii) other than in accordance with the acceptable use policies of any connected networks.
- (c) Use of the internet (which is separate from the Broadband Service) is at the Customers own risk and subject to any applicable laws. Annodata will not be liable for any goods, services, information, software, or other materials that the Customer may obtain when using the internet or newsgroups, nor for any consequences resulting from viewing, downloading or any interaction whatsoever with the internet or with newsgroups.

4.3. Domain Names

- (a) The Customer may, from time to time, request that Annodata submits to the relevant domain name registry on the Customers behalf applications for registration of domain names selected by the Customer. Where Annodata elects to accept such a request the Company warrants and represents that: none of the requested domain names or the Customers use of any domain name will interfere with the rights of any third party, infringe upon any service mark, trade mark or other personal, moral or property right; and all statements on any domain name application will be true and correct.
- (b) Annodata reserves the right to require the Customer to select a replacement domain name if, in Annodata's reasonable opinion, there are reasonable grounds to believe that the current choice of domain name is, or is likely to be, in breach of the provisions of Condition 4.3 (a). The Customer shall, provided it is satisfied with such opinion, acting reasonably, select such a replacement or where such domain name has previously been registered to a third party the Customer shall be obliged to select a replacement. The provisions of this Condition 4.3 (b) shall apply to any such replacement domain name.
- (c) The registration of the domain name and its ongoing use by the Customer is subject to the relevant naming authority's terms and conditions of use. The Customer undertakes to comply with such terms and conditions. The Customer hereby irrevocably waives any claims it may have against Annodata in respect of any decision of a naming authority to refuse to register a domain name and, without limitation, the Customer acknowledges and agrees that any administration or other charge paid by the Customer in respect of the registration of the domain name is non-refundable in any event.
- (d) In the event Annodata agrees to provide the Customer with an IP Address the Customer will have a non-transferable licence to use any such IP Address allocated by Annodata to the Customer for the duration of this Agreement. If this Agreement is terminated for whatever reason, the Customers licence to use the IP Address shall automatically terminate.

4.4. Number Portability The Customer confirms it is aware of any requirements that may apply in relation to the portability of any numbers and that it does not own any number nor has any right to sell or to agree to transfer any number provided to it.

4.5. Intellectual Property Rights Nothing in this Agreement entitles the Customer to use and the Customer will not use the logo, trademark or any Annodata or BT intellectual property of BT or any of BTs trading divisions or other BT Associated Company. In addition the Customer will not use, or permit any use of, BTs name in connection with any Annodata Service. Any breach of this Condition 4.5 will be a material breach of this Agreement for the purposes of Condition 9.3(a).

4.6. Line Rental Service Before any Customer can obtain the Line Rental Service he needs to terminate his contact with BT or his current service provider covering access to the BT network as a consequence of entering into a new Agreement.

5. GAMMA & HORIZON INSTALLATIONS

5.1. For Services which include Horizon and Gamma product installations then the following additional terms will apply, the terms maybe viewed at www.gamma.co.uk/legal/horizon.

6. EQUIPMENT

6.1. The Customer shall prepare the Site in accordance with Annodata's reasonable instructions.

6.2. The Customer shall provide without charge or cost to Annodata appropriate equipment space, ducting, environment and continuous stable electrical power to install and maintain the Annodata Access Equipment at its Site and to enable Annodata to provide the Services.

6.3. The Customer agrees to restore the condition of the Site including any redecoration that may be required after installation is completed.

6.4. Prior to installation of the Annodata Access Equipment the Customer shall obtain all necessary consents including without limitation, consents for any necessary alterations to buildings, permission to cross other people's land or permission to put Annodata Access Equipment on their property.

- 6.5. Title to any Annodata Access Equipment shall remain with Annodata or it provides (as relevant) and whilst the Annodata Access Equipment is on the Customers premises, the Customer shall ensure that it is kept safe and secure and is not interfered with by any person other than an Authorised Person.
- 6.6. Upon termination of the Agreement, the Customer will at Annodata's option, either ensure that Annodata is allowed prompt access to all relevant premises to remove the Annodata Access Equipment or procure that the Annodata Access Equipment is returned to Annodata, in either case within 14 days of Annodata's request.
- 6.7. If the Customer fails to allow access for the removal of Annodata Access Equipment (as required pursuant to Condition 9.6(b)) the Customer will pay all of Annodata's access costs in recovering the Annodata Access Equipment.
- 6.8. If the Customer prevents Annodata from recovering the Annodata Access Equipment or the Annodata Access Equipment is, in the reasonable opinion of Annodata, damaged the Customer shall pay to Annodata on demand a sum equal to the market value of the Annodata Access Equipment at that time.
- 6.9. Where the Customer has Least Cost Routing Software available for use at its premises, Annodata will, if necessary, and at its sole discretion, reprogram it in order to provide the Services.
- 6.10. Where the Customer does not have Least Cost Routing Software available for use at its premises, Annodata will, if necessary, and at its sole discretion supply, install and connect the Customer to Annodata Access Equipment in order to provide the Services.

7. CHARGES AND PAYMENTS FOR THE SERVICES

- 7.1. The Customer shall pay to Annodata the charges for the Services as detailed in the Customer Agreement or as otherwise notified to the Customer by Annodata from time to time.
- 7.2. All sums due to Annodata under this Agreement shall become due on the date of the relevant invoice and are payable within 14 days (including week-ends and bank holidays) of the date of the relevant invoice.
- 7.3. In the event of any error or omission in a Annodata invoice for any period, Annodata may issue a corrective invoice at a later date, but no later than four months after the relevant invoice date.
- 7.4. If the Customer fails to make any payment without prejudice to its other rights hereunder, Annodata shall have the right to require the Customer to pay all sums due on demand.
- 7.5. Time of payment of all sums due to Annodata under the Agreement shall be of the essence.
- 7.6. Annodata reserves the right to amend its charges for the Services from time to time by 7 days prior written notice to the Customer.
- 7.7. Annodata shall use its best endeavours to bring to the attention of the Customer any variation in prices prior to their implementation.
- 7.8. Without prejudice to Annodata's rights to treat the non-payment as a material breach of the Agreement, Annodata reserves the right to charge interest on outstanding amounts from the due date until payment is received in full at a rate equal to: 5% per annum above the Barclays Bank plc base lending rate as current from time to time (where the Customer is not obtaining the Services in the course of business); or such interest rate as is prescribed from time to time by the Late Payment of Commercial Debts (Interest) Act 1998 (where the Customer is obtaining the Services in the course of business) whether before or after judgement. Interest shall continue to accrue notwithstanding termination of the Agreement for any cause whatsoever and is deemed to accrue on a day to day basis from and including the date for payment under Condition 6.1.
- 7.9. Annodata reserves the right to charge for administrative costs incurred by Annodata in pursuing late payers.
- 7.10. All sums due to Annodata under the Agreement are subject to Value Added Tax(VAT), and any other applicable taxes, levies or charges which may from time to time be introduced.
- 7.11. The Customer shall be liable for all charges arising from use of the Services by any person utilising the Customers registered Services telephone number(s) (with or without Customers authorisation) whether fraudulently or improperly using the Services until such time as the Customer has notified Annodata of any unauthorised use of the Service.
- 7.12. Annodata shall invoice for the Services monthly and the charge for each call will be rounded up to the next whole legal tender.
- 7.13. In the event that any claim of any kind is made against Annodata relating to goods facilities or services made available as a result of a Revenue Share Service call or as a result of any act which happens in consequence of the Revenue Share Service call, either by BT, Gamma or any other intermediate interconnecting network or by an end user or acquirer of any such goods facilities or services or by a party suffering allegedly as a result of any such actor thing who has obtained access to such goods facilities or services by use of the Revenue Share Service number, the Customer shall indemnify and keep indemnified Annodata against all costs charges claims and liabilities howsoever deriving from any such claim.
- 7.14. The Customer agrees to pay Annodata for all call-out visits required from Annodata (at its then current published rates which shall be notified to the Customer in advance of any call out) where Annodata determines that (i) the problem with the Services or the Annodata (Link) Network is not the fault of Annodata or the Annodata Access Equipment or (ii) the Annodata Access Equipment has been damaged by the Customer.
- 7.15. Annodata reserves the right to charge on to the customer any network rate increase for the services being provided to the customer. Annodata may increase charges in line with RPI changes % increase to the rentals, Calls and Services provided

8. DATA PROTECTION

- 8.1. Both Parties shall fully adhere to all applicable Data Protection Legislation.
- 8.2. For the purposes of the Data Protection Legislation, the Parties agree that the CUSTOMER is the Data Controller in respect of any Personal Data that Annodata processes in the course of performance of this Agreement for the Customer (other than business contact data processed by Annodata to allow it to manage the Customer's Agreement) and that Annodata is the Data Processor for the purposes of Processing Personal Data pursuant to this Agreement. The Customer shall ensure all its instructions to Annodata in respect of Personal Data (including the terms of the Agreement) shall, at all times be in accordance with Data Protection Legislation.

- 8.3. In the event Annodata processes Personal Data as Data Processor, Annodata shall process Personal Data in accordance with Annodata Data Processing terms & conditions which are accessible via www.annodata.co.uk and which are incorporated by reference and form part of this Agreement.

In the event that one Party processes Personal Data (as Data Controller of that Personal Data) of the other Party, or if the one Party receives Personal Data directly from affected Data Subjects of the other Party, such personal data shall be processed by the one Party under the privacy statement of that one Party. The Annodata privacy statement is available on www.annodata.co.uk.

9. ANNODATA'S RIGHT TO SUSPEND AND ALTER THE AGREEMENT

- 9.1. Annodata may suspend the Services to the Customer at its sole discretion including but not limited to the following:- in the interests of the quality of the Services or the Annodata (Link) Network; or if any credit limit agreed between The Parties from time to time is exceeded; or if any term of the Agreement is breached (including, without limitation, in the event of a failure to make any payment or provide any deposit required to be made or provided under the Agreement); or in order to comply with an order, instruction or request of any government, emergency service organisation or other competent authority; or if fraud or attempted fraud or serious illegal misuse is suspected by Annodata (in its reasonable opinion) to have taken place or possibly be about to take place in connection with the use of the Services or the Annodata (Link) Network; or if in Annodata's reasonable opinion it suspects the Customer is offering to resell the Services to any third party.
- 9.2. Annodata may alter or replace this Agreement from time to time upon 30 days prior notice to the Customer PROVIDED THAT if such alteration or replacement terms are materially detrimental to the Customer the Customer may terminate this Agreement within 30 days of the date of Annodata's written notice by providing Annodata with 30 days prior written notice (during which time the alteration or replacement shall not be effective).
- 9.3. Where Annodata alters the provisions of the Services pursuant to Clause 2 the Customer shall not be entitled to terminate the Agreement pursuant to Condition 9.2

10. TERMINATION

- 10.1. The Agreement may be terminated by either Annodata or the Customer giving at least 90 days prior notice in writing to the other (including week-ends and bank holidays) PROVIDED THAT such notice does not expire prior to the expiration of the Minimum Term or any Extended Term (as relevant). **Note that any termination requests must be provided by email to contracts@annodata.co.uk in order to be valid.**
- 10.2. If neither Party provides notice to terminate in accordance with Condition 9.1 the Parties agree that the Agreement shall automatically be renewed for a further fixed period equal to the Minimum Term (Extended Term). If neither Annodata nor the Customer provide notice to terminate any Extended Term in accordance with Condition 9.1 the Customer and Annodata agree that the Agreement shall automatically be renewed from time to time for further fixed periods equal to the Minimum Term.
- 10.3. Annodata may (without prejudice to its other rights) terminate the Agreement forthwith by written notice to the customer in the event that: the Customer fails to make any payment when it becomes due to Annodata or shall default in due performance or observance of any obligation under the Agreement or any other Agreement with Annodata or an Associated Company and (in the case of remedial breach) fails to remedy the breach within a reasonable time specified by Annodata in its written notice so to do; or where the Customer (being an individual) or one or more individuals forming part of the Customer (where such Customer comprises several individuals) enters into or proposes an arrangement or composition with his creditors or commits any act of bankruptcy or if any petition or receiving order in bankruptcy is presented or made against him or he suffers any process of execution or distress upon his assets; or where the Customer (being a Company) has an interim order made, or a voluntary arrangement approved, or if any circumstances arise which entitle the court or a creditor to appoint a receiver or administrator or to present a winding-up petition or make a winding-up order or is dissolved or struck off the register of companies in respect of that Customer or the assets of the Customer or any substantial part thereof or where the Customer is unable to pay its debts as they fall due from time to time.
- 10.4. The expiry or termination of this Agreement shall be without prejudice to any accrued rights or liability of either party prior to such expiration or termination. The terms of this Agreement shall continue to bind the parties hereto to such extent and for so long as may be necessary to give effect to the rights and obligations embodied in it including without limitation Conditions 3.2, 3.3, 3.4, 4, 5.5 to 5.8 (inclusive), 6, 7, this Condition 9, 10 and 13 to 18 (inclusive).
- 10.5. Annodata may terminate a Broadband Circuit or the provision of a Line Rental Service to any individual Site on 28 days written notice to the Customer in circumstances which include but are not necessarily limited to the following: where a Site has been demolished; or where the new occupant at a Site does not wish to receive such Services.
- 10.6. If the Agreement is terminated by either party hereto, the Customer shall: pay to Annodata all arrears of charges (including without limitation any charges payable pursuant to Conditions 3.2 to 3.4 (inclusive)) together with any interest payable under the Agreement up to the date of termination; return to Annodata all equipment owned or provided by Annodata and/or allow Annodata access forthwith to the Customers Site for the removal of any Annodata Access Equipment; undertake and comply with the provisions of Conditions 5.6 to 5.8 (inclusive); and cease being provided the Services and have no right to use the Annodata (Link) Network and have no right to use the same and no attempt shall be made to make calls via the Services.

11. LIMITATION OF LIABILITY

- 11.1. The following provisions set out Annodata's entire liability (including any liability for the acts and omissions of its directors, officers, employees, agents or sub-contractors) to the Customer in respect of: any breach of its contractual obligations arising under this Agreement; and any representation statement or tortious actor omission including negligence arising under or in connection with this Agreement. **AND THE CUSTOMERS ATTENTION IS IN PARTICULAR DRAWN TO THE PROVISIONS OF THIS CONDITION 11.**
- 11.2. Any act or omission on the part of Annodata or their directors, officers, employees, agents or subcontractors falling within Condition 10.1 shall for the purposes of this Condition 11 be known as an Event of Default.
- 11.3. Annodata's liability to the Customer for fraud, fraudulent misrepresentation and/or for death or injury resulting from their own or that of their directors, officers, employees, agents or sub-contractors negligence shall not be limited.
- 11.4. **SUBJECT TO THE PROVISIONS OF CONDITION 11.3, Annodata's ENTIRE LIABILITY IN RESPECT OF ANY EVENT OF DEFAULT SHALL BE LIMITED TO DAMAGES NOT EXCEEDING THE SUMS PAID BY THE CUSTOMER TO Annodata FOR THE SERVICES PURSUANT TO THIS AGREEMENT IN THE PRECEDING THREE MONTH PERIOD IN THE CASE OF A SINGLE EVENT OF DEFAULT AND TWICE THE SUMS PAID BY THE CUSTOMER TO Annodata FOR THE SERVICES PURSUANT TO THIS AGREEMENT IN THE PRECEDING THREE MONTH PERIOD IN THE CASE OF ALL EVENTS OF DEFAULT OR SERIES OF CONNECTED EVENTS OF DEFAULT OCCURRING IN ANY TWELVE MONTH PERIOD.**

- 11.5. Subject to Condition 11.3, Annodata shall not be liable to the Customer in respect of any Event of Default: for loss of profits, for loss of goodwill; for loss of Agreements; for loss of opportunity; for loss of data; for loss of business; or for any similar losses or pure economic loss; or for any type of: special; indirect; or consequential loss whatsoever or howsoever, even if such loss was reasonably foreseeable or Annodata had been advised of the possibility of the Customer incurring the same.
- 11.6. If a number of Events of Default give rise substantially to the same loss then they shall be regarded as giving rise to only one claim under the Agreement.
- 11.7. Except in the case of an Event of Default arising under Condition 11.3, Annodata shall have no liability to the Customer in respect of any Event of Default unless the Customer shall have served notice of the same upon Annodata within six months of the date the Customer became aware of the circumstances giving rise to the Event of Default or the date when it ought reasonably to have become so aware.
- 11.8. Annodata shall not be responsible for complying with statutory regulations, or local by-laws, or the fulfilment of any special regulations affecting the Customer.
- 11.9. Save as set out in Condition 11.3, Annodata shall have no liability under this Agreement of the acts and omissions of other public telecommunication operators or the breakdown total or partial of the Annodata (Link) Network or any other network.
- 11.10. To the extent that all or any part of the Services are faulty, unavailable or interrupted, the Customers sole and exclusive remedy shall be to be to such compensation as Annodata is entitled to from time to time from its relevant wholesale supplier.
- 11.11. Annodata shall not be liable for faults in the Customers telecommunications equipment which result in Annodata being unable to provide the Services.
- 11.12. Dates and times for provisions of the Services shall be estimates only and no liability shall accrue to Annodata for failure to meet any such dates or times. Annodata will not be held responsible for any loss due to programming errors or omissions made by any Authorised Person.
- 11.13. Annodata does not warrant that the Services will be fault free or free of interruption. In the event of any failure in the Services, Annodata shall not be liable to the Customer for any charges incurred by the Customer should it direct its telecommunication traffic to another carrier.
- 11.14. Annodata reserves the right not to provide the Services due to any technical limitation in the Customers telephone system, telephone exchange or Annodata Access Equipment.
- 11.15. You must pay the charges for the Services according to the applicable tariff(s). This applies whether you or someone else use the Services and whether the Services are used with your full knowledge and consent or otherwise. (This means by way of example but not by way of limitation that you are liable to pay for all calls made as a result of "rogue diallers", unbarred premium rate numbers and calls made by any third party gaining unauthorised access to your telephony systems).
- 11.16. We shall not be liable for any costs, or consequential losses or consequential costs relating to telephone calls or any malicious acts resulting from these telephone calls made in a malicious or otherwise manner, made through the telephone system either from within the Customer's premises or by a third party obtaining access to the Customer's system. For the avoidance of doubt, the security of the Customer's telephone system is the sole responsibility of the Customer notwithstanding any work carried out on the system by our employees or subcontractors.
- 11.17. The obligations set out in this Condition 11 as to limitations of liability shall remain in full force and effect notwithstanding the expiration or any termination of this Agreement for any reason whatsoever.

12. DEPOSIT

- 12.1. Annodata may at any time before or after the provision of the Services require payment by the Customer in a manner specified by Annodata of a sum to be held by way of a deposit as and against any charges arising from use of the Services by the Customer and Annodata shall be entitled to offset such deposit against any sums due under this Agreement from time to time including interest due or owing to Annodata pursuant to Condition 6.8.
- 12.2. Any deposit held by Annodata will not accrue interest whatsoever although any deposit (or part thereof) which is held by Annodata for over one year and which is subsequently repaid to the Customer may, at Annodata's discretion, attract interest at an amount determined by Annodata.

13. ASSIGNMENT

- 13.1. The Customer shall not assign, transfer, sub-contract, delegate or otherwise deal with all or any of its rights under the Agreement.
- 13.2. Annodata shall have the right to assign or otherwise transfer, sub-contract, delegate all or any of its rights and obligations hereunder to an Associated Company or other person.

14. FORCE MAJEURE

- 14.1. Neither Party shall be liable to the other Party by reason of any failure or delay in performance of its obligations under this Agreement which is due to a Force Majeure Event where there is no practicable means available to the Party concerned to avoid such failure or delay.
- 14.2. A Party that is subject to a Force Majeure Event shall not be in breach of this Agreement provided that:
 - 14.2.1. it promptly notifies the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and
 - 14.2.2. it could not have avoided the effect of the Force Majeure Event by taking precautions which, having regard to all the matters known to it before the Force Majeure Event, it ought reasonably to have taken, but did not; and
 - 14.2.3. it has used all reasonable endeavours to mitigate the effect of the Force Majeure Event by carrying out its obligations under this Agreement in any way that is reasonably practicable and the Party resumes the performance of its obligations as soon as reasonably possible.

14.2.4. Notwithstanding the provisions of this Clause 13, the CUSTOMER agrees that its obligation to pay the Charges and all other sums payable to Annodata shall not be affected by a Force Majeure Event, and that such sums shall be paid in accordance with this Agreement, including but without limitation to Clause 6

14.2.5. If the Force Majeure Event continues for a continuous period of more than three months, subject to payment by the CUSTOMER to ANNODATA of the amounts detailed at Clauses 16.2.1, 16.2.2, and 16.2.3, either Party may terminate this Agreement by giving fourteen (14) days' written notice to the other Party.

15. ANTI-BRIBERY

15.1. Each Party shall comply with the Bribery Laws and all policies with which each Party is required to comply relating to the prevention of bribery and corruption and each shall ensure that:

15.1.1. all of that Party's personnel; and

15.1.2. all other persons associated with that Party involved in performing services for or on behalf of that Party or otherwise involved with this Agreement so comply.

15.2. Customer agrees to:

- (i) comply with all Applicable Laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption;
- (ii) not offer, promise, authorise, give, request, demand or accept any improper payment, anything of value, or an undue advantage for, to, or from anyone in government and or the private sector in order to gain, retain or direct business, or secure any other improper advantage for Customer or any person;
- (iii) have and maintain in place throughout the Term of this Agreement its own policies and procedures to ensure compliance with Applicable Laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption and will enforce them where appropriate;
- (iv) immediately notify Annodata in writing if a foreign public official becomes an officer or employee of Customer or acquires a direct or indirect interest in Customer, and Customer warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of this Agreement;
- (v) notify Annodata immediately, or in any event, in not less than thirty (30) days after it becomes aware of any improper or illegal payments offered, promised, made authorised, requested or received by, to, or from a foreign public official or other person in connection with the performance of Customer's duties under this Agreement;

15.3. Without prejudice to the generality of clause 14.1: neither Party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment or advantage, or allow any such bribe, improper payment or advantage to be made or received on its behalf, either in the United Kingdom or elsewhere and shall implement and maintain adequate procedures to ensure that such bribes or improper payments or advantages are not made or received directly or indirectly on its behalf.

15.4. Each Party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of this clause.

15.5. The expressions 'adequate procedures', 'associated with' and 'foreign public official' shall be construed in accordance with the Bribery Act 2010.

16. INTELLECTUAL PROPERTY

16.1. Annodata's pre-existing proprietary rights shall remain with Annodata and nothing in this Agreement serves to grant the Customer any rights in any intellectual property embodied in a solution developed by Annodata on behalf of the Customer, including but not limited to

- (i) all patent, copyright, trade mark and other intellectual property rights therein; and
- (ii) all methodologies, processes, techniques, ideas, concepts, trade secrets and know-how embodied in the solution.

16.2. The Customer acknowledges and agrees that all Intellectual Property Rights in any Materials are owned by (or licensed to) Annodata and shall continue to be owned by (or licensed to) Annodata. The Customer acknowledges that Materials (if any) are licensed by Annodata to the Annodata on the basis of a non-exclusive, personal, non-transferable, revocable and non-sub-licensable licence for the Customer to use solely for the purposes and to the extent necessary for the distribution of the Products and/or the provision of the Services and that such licence is terminable by Annodata at any time. The Customer is not permitted (without the prior written consent of Annodata) to reproduce or adapt any Annodata Materials in whole or in part.

16.3. The provisions of this clause 16 also extends to the rights outlined in (i) and (ii) above to BT and any of its trading divisions and to Gamma and any of its trading divisions. Any breach of this clause will be a material breach of this Agreement for the purposes of clause 9.3.

17. NO WAIVER

Failure by either Annodata or the Customer to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right nor operate so as to bar the exercise or enforcement thereof or of any other right on any later occasion.

18. ENTIRE AGREEMENT

The Agreement represents the entire understanding between the parties in relation to the subject matter of the Agreement and supersedes all other agreements and representations made by either party, whether oral or written.

19. NOTICES

19.1. Any notice or other communication required to be given under this Agreement, shall be in writing and shall be delivered personally, or sent by pre-paid first-class post or recorded delivery or by commercial courier or by email, to each Party required to receive the notice or communication at its address or email address as set out in this Agreement or as otherwise notified by the relevant Party in writing to the other Party.

19.2. For the purposes of the Agreement any notices should be address to the following persons;

For the CUSTOMER; Position: The Finance Director

For ANNODATA Position: The Finance Director

19.3. Any notice or other communication shall be deemed to have been duly received:

19.3.1. if delivered personally, when left at the Party's address; or

19.3.2. if sent by pre-paid first-class post or recorded delivery, at 9.00 am on the second Business Day after posting; or

19.3.3. if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed by Party receiving notice.

19.3.4. if sent by email on receipt of a delivery or read receipt email from the correct address.

19.4. The provisions of this clause 19 shall not apply to the service of any proceedings or other documents in any legal action.

20. NO PARTNERSHIP OR AGENCY

20.1. Except as expressly provided, nothing in this Agreement is intended to, or shall be deemed to, create any partnership or joint venture between the Parties, constitute either Party as the agent of the other, nor authorise one Party to make or enter into any commitments for or on behalf of the other Party.

21. GENERAL

21.1. Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted, with or without amendment.

21.2. Unless there is something inconsistent in the subject or context, words denoting the singular number only include the plural and vice versa; words denoting one gender only include the other genders.

21.3. Unless the context otherwise requires, a reference to a Condition is to a condition of the Agreement.

21.4. The headings in the Agreement are inserted for convenience only and do not affect its interpretation.

21.5. If any provision of the Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Agreement had been entered into with the invalid provision eliminated.

21.6. A person who is not a party to this Agreement has no right under the Agreements (Rights of Third parties) Act 1999 to enforce any provisions of this Agreement.

21.7. References to persons will be construed so as to include any body corporate, unincorporated association, individual, firm, local or municipal authority or government body or any joint venture, association or partnership (whether or not having separate legal personality).

22. COMPLAINTS AND DISPUTE RESOLUTION

22.1. Without prejudice to any statutory rights of the Customer (if any), Annodata undertakes to try and resolve any disputes between it and the Customer in relation to the subject matter of this Agreement in accordance with Annodata's Code of Practice from time to time in force (the current version of which can be viewed on Annodata's website).

22.2. Where, at the end of the complaints procedure the Customer feels that the complaint or dispute concerned has not been properly addressed to its satisfaction then it may, without prejudice to its other rights or remedies, contact Otelo, the independent dispute resolution service, at PO Box 730, Warrington, WA4 6WU (or alternatively through its website at www.otelo.org.uk, by email to enquiries@otelo.org.uk, or by telephone to 0845 050 1614).

23. GOVERNING LAW AND JURISDICTION

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

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 Agreement or its subject matter or formation (including non-contractual disputes or claims).