EXPONENTIAL-E GENERAL TERMS OF BUSINESS – US CARRIERS (APRIL 2016)

This document (the "General Terms") sets out the general terms and conditions on which Exponential-e will provide its carrier services to the Customer.

Exponential-e and the Customer hereby agree as follows:

1. DEFINITIONS

1.1   In the Contract, the following terms shall have the meanings assigned to them below:

"Acceptable Use Policy"	the acceptable use policy document of Exponential-e as current from time to time (copy available from Exponential-e upon request, including via sales@exponential-e.com and/or at URL (or other URL as notified from time to time) http://www.exponential-e.com/carrier-terms-US (accessible using the username "exponential-e" and the password "appliedinnovation".
"Affiliate"	an entity that directly or indirectly controls, is controlled by or is under common control with a Party. For purposes of the foregoing, "control" shall mean the ownership of more than fifty percent (50%) of the (i) voting power to elect the directors of the said entity, or (ii) ownership interest in the said entity.
"**Annual Charge**"	the on-going fee for the provision of the Service(s), where applicable, as detailed on the Order Form (and, if applicable, as amended in line with the Contract).
"Carrier EPL Service"	the service described as such in the Service Document.
"Change Management Process"	the process of requesting and recording changes to the Service(s) and/or the Contract detailed in the Exponential-e Change Management Process Document.
"Change Management Process Document"	the Exponential-e change management process document as current from time-to-time, copy available upon request including via sales@exponential-e.com.
"Change Order"	the change order agreement prepared in accordance with Exponential-e's Change Management Process.
"**Charges**"	the charges payable for the Service(s) as detailed in the Contract which shall include any Annual Charge (where applicable) any Non-Recurring Charges (where applicable) and any other charges set out in the Contract.
"Confidential Information"	any information concerning the business, accounts, finance, contractual dealings, customers, pricing, transactions or affairs of a Party which are designated as, or which should reasonably be considered as being, confidential.
"**Contract**"	an Order Form together with (i) any special terms incorporated by reference on the Order Form and signed by the Parties; and/or (ii) these General Terms (including any documents incorporated by reference herein); and (iii) the Service Document.
"**Customer**"	the entity purchasing Exponential-e's products and/or services as detailed on the Order Form.
"Customer Contact"	the Customer's authorised representative specified as such in the Contract, nominated to liaise and work with Exponential-e in connection with the Service(s).

"Customer Content"	the works of authorship, marks, data, information, materials and other content that is sent, received, transmitted, hosted, stored, replicated or otherwise made available by means of the Service(s), including (without limitation) names, domain names, logos, designs, computer software, recorded visual imagery (including video recordings and photographs), sounds, audio materials (including master recordings), musical compositions (including arrangements and lyrics), graphics (including animation), textual matter, and any combination of the above. All Customer Content is and will remain the property of Customer.
"Customer Equipment"	items of equipment owned or leased by the Customer located at the Customer Site(s) and used in order to provide and/or receive the Service(s).
"Customer Site(s)"	the customer locations at which the Service(s) will be provided (if applicable), as specified on the Order Form.
"Documentation"	any documentation provided to the Customer by Exponential-e for the purpose of providing the Service(s).
"**Due Date**"	the due date for payment of an invoice for the Charges as set out in Clause 5.6.
"Electronic Signature"	a signature that consists of one or more letters, characters, numbers or other symbols in digital form incorporated in, attached to or associated with a human readable electronic version of the Contract documents using Exponential-e's designated electronic signature software.
"**Exponential-e**"	Exponential-e Limited, registered in England and Wales under company registration number 04499567.
"Exponential-e Equipment"	the equipment (if any) owned by Exponential-e and/or its suppliers, which is located at the Customer Site(s) in order to provide the Service(s).
"Exponential-e Personnel"	the staff and contractors of (i) Exponential-e and (ii) Exponential-e's contractors and suppliers engaged in the provision of the Service(s).
"Exponential-e Site"	the Exponential-e location(s) where the Service(s) will be provided from including any data centres owned and operated by Exponential-e or its suppliers.
"Force Majeure Event"	any circumstance beyond a Party's reasonable control (including, without limitation, act of God, the act or omission of the other Party, labour dispute, act or omission of government or other appropriate authority, act of terrorism, war, technological attack (including, but not limited to denial of service attacks, attacks involving Malicious Code and computer hacking), and regulatory and legal changes).
"**Initial Term**"	the initial term for which each Service shall be provided to the Customer (if applicable), as set out on the Order Form and calculated from the Service Commencement Date for that Service.
"**Insolvent**"	(i) the appointment of, or the application to a court for the appointment of a liquidator, provisional liquidator, administrator, administrative receiver or receiver; or (ii) entering into a scheme of arrangement or composition with or for the benefit of creditors generally or any class of creditors; or (iii) any reorganisation,

	moratorium or other administration involving its creditors or any class of creditors; or (iv) a resolution, or proposed resolution, to wind it up or strike it off; or (v) becoming unable to pay debts as and when they become due or becoming deemed to become unable to pay debts as and when they become due within the meaning of Section 123 of the Insolvency Act 1986.
"Intellectual Property"	patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
"Laws"	all treaties and applicable statutory enactments (as amended, replaced, or re-enacted from time to time) and any bye-laws, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made, required or granted thereunder and any condition attaching thereto, including any specific laws mentioned by name herein.
"Malicious Code"	viruses, logic bombs, worms, trojan horses or other types of destructive, disruptive or nuisance programs.
"**Non-Recurring Charges**"	the one-off charges (if any) for the Service(s) as detailed on the Order Form (and, if applicable, as amended in line with the Contract).
"**Normal Business Hours**"	9 a.m. to 5.30 p.m. on any Working Day GMT/BST.
"**Order Form**"	the completed Exponential-e order form signed by the Parties.
"**Parties**"	the Customer and Exponential-e and "Party" shall be construed accordingly.
"Portal Terms of Use"	the terms of use applicable to, and accessible via, any portal provided by Exponential-e to the Customer for use with the Service(s) or otherwise pursuant to the Contract.
"Service(s)"	the service(s) to be provided by Exponential-e to the Customer as set out on the Order Form and further explained in the Service Document.
"Service Commencement Date"	the earlier of (i) the date that the Customer is notified by Exponential-e in writing that the Service is ready for use and (ii) the date that the Customer actually starts using the Service.
"**Service Document**"	Exponential-e's Service Document for Carrier Connectivity Services current at the time of entering into the Contract and referenced on the Order Form, containing details of the service(s) Exponential-e offers to its carrier customers (or the component parts thereof) and the Additional Terms applicable thereto, which are available from Exponential-e upon request (including via sales@exponential-e.com and/or at URL (or other URL as notified from time to time)

	http://www.exponential-e.com/carrier-terms-US (accessible using the username "exponential-e" and the password "appliedinnovation"
"**Target Service Commencement Date**"	the date by which Exponential-e shall use reasonable endeavours to handover the Service(s) (if applicable), as detailed in the Service Document.
"**Working Day**"	Monday to Friday (inclusive), excluding all public and bank holidays in England and Wales.

1.2   In the event of any conflict between (i) the Order Form, (ii) any special terms incorporated by reference on the Order Form and signed by the Parties, (iii) these General Terms (including any documents incorporated by reference herein) and (iv) the Service Document, the hierarchy of precedence shall be as stated here (with the Order Form having the highest precedence).

1.3   The headings in these General Terms are for ease of reference only and shall not be taken into account in the construction or interpretation of these General Terms.

2.   ORDERING, SERVICE PROVISION & ACCEPTANCE

2.1   An Exponential-e order form signed and submitted by the Customer to Exponential-e shall constitute an offer to acquire the Services specified in the order in accordance with the terms referenced therein. No order shall be deemed to have been accepted by Exponential-e until that order form has been signed in acceptance by Exponential-e. Once accepted by Exponential-e, each Order Form shall form a Contract between the Parties from the date the Order Form is accepted by Exponential-e. Each Order Form shall form a separate contract in its own right.

2.2   Exponential-e will notify the Customer in writing when it is ready to hand-over a Service to the Customer.

2.3   Where Exponential-e agrees to delay the Service Commencement Date following the Customer's written request, or the Target Service Commencement Date is not met as a result of the Customer's delay or failure to fulfil its obligations under the Contract, the Annual Charge(s) for that Service shall be payable from the Target Service Commencement Date for that Service, unless otherwise agreed in writing by the Parties. Nothing in this clause shall oblige Exponential-e to agree to any delayed handover of the Service(s).

2.4   Exponential-e reserves the right, at any time, to make any modification, change or addition to, or replacement of, any Service (or part thereof) or the Exponential-e Equipment, where this is required to conform with any applicable safety requirements or Laws.

2.5   Subject to Clause 2.4 above and any specific provisions in the Service Document(s), all requested changes to the Service(s) shall be dealt with in accordance with Exponential-e's Change Management Process.

3.   CUSTOMER SITE ACCESS

3.1   Where necessary to enable Exponential-e to carry out its obligations and exercise its rights under the Contract, the Customer shall provide Exponential-e Personnel with such access to the Customer Site(s) as Exponential-e shall reasonably require, subject to reasonable advance notice. Any period of delay in providing Exponential-e Personnel with access to the Customer Site(s) shall be excluded from any service level calculations.

3.2   The Customer shall ensure that Exponential-e Personnel have a safe working environment at the Customer Site(s). Exponential-e Personnel will comply with all reasonable health and safety and security policies applicable to the Customer Site, provided in writing prior to, or at the time of entry to, the Customer Site(s).

4.   FAULT MANAGEMENT

4.1   Exponential-e will support the Service(s) and deal with faults as per the provisions of the Service Document. The Service(s) will be subject to the service levels (if any) set out in the Service Document.

4.2   The Customer shall notify Exponential-e of any material non-conformity or fault with the Service(s) as

per the Service Document.

4.3 Any time incurred by Exponential-e in investigating alleged faults or non-conformities with the Service(s) notified to it by the Customer, which are later found not to have existed, may be charged to the Customer in accordance with Exponential-e's then-current standard rates together with any third party supplier costs incurred in investigating the same. The Customer shall be entitled to see reasonable documentary evidence attesting to such third party costs.

5. FEES AND PAYMENT

5.1 The Non-Recurring Charges shall become invoiceable upon the Service Commencement Date.

5.2 Subject to Clause 2.3, the Annual Charge (where applicable) shall be payable in advance from the Service Commencement Date in accordance with the payment frequency set out on the Order Form. The first payment (being for the remainder of the month in which the Service Commencement Date occurs, calculated on a pro-rata temporis basis, plus the following month / quarter / year, as applicable) shall be invoiceable by Exponential-e on or following the relevant Service Commencement Date. Subsequent payments shall become invoiceable at the start of the month immediately preceding the month / quarter / year being invoiced.

5.3 As from the Service Commencement Date, the Annual Charge shall, subject to anything contrary in the Service Document, and subject to Clause 5.9 below, be firm and fixed for the duration of the Initial Term. With effect from the expiry of the Initial Term, Exponential-e shall be entitled to revise the Annual Charge to reflect Exponential-e's then current standard rates, by giving the Customer not less than ninety (90) days prior written notice.

5.4 All Charges are payable in US Dollars and are exclusive of Value Added Tax and any other applicable taxes which shall be payable by the Customer in addition, in the manner prescribed by law.

5.5 Invoices for the Charges (save where specified otherwise herein) shall be paid by the Customer within thirty (30) days of the date of the invoice. The Customer shall pay all invoiced amounts without any deductions, with-holdings, counter-claims and/or set-offs (sums subject to reasonable and notified dispute in accordance with Clause 5.6 below excepted).

5.6 In the event that the Customer has a bona fide dispute as to sums invoiced, the Customer shall serve notice to this effect on Exponential-e as soon as reasonably practicable and in any event prior to the Due Date for payment thereof, detailing the sums disputed and the reason for the dispute. All non-disputed sums shall be paid by the Due Date. The Parties shall use all reasonable good faith endeavours to resolve any billing dispute prior to the Due Date for payment. In the event that a billing dispute remains outstanding 45 days after the date of notice of the same to Exponential-e, either Party may refer the matter for resolution in accordance with Clauses 15.1 and 15.2.

5.7 If an undisputed invoice (or an undisputed part of an invoice) is not paid in full by the Due Date for payment thereof, then without prejudice to Exponential-e's other rights and remedies Exponential-e reserves the right to:

5.7.1 charge interest on the outstanding sum on a daily basis (before as well as after any judgement) until the date of payment, at Barclays Bank base rate plus four percent (4%); and/or

5.7.2 suspend the Service(s) (or any part thereof) in accordance with Clause 11; and/or

5.7.3 use any deposit given by the Customer under Clause 5.8 below, to pay any outstanding sum.

5.8 Exponential-e may require the Customer to pay a deposit and/or require the Customer to procure that the Customer's parent company or related company guarantees the payment of the Charges due under the Contract. The Customer agrees to enter into (and/or procure the execution of) any reasonable agreement or deed Exponential-e submits for such purpose.

5.9 The US dollar Charges on the Order Form, are based upon the US dollar to Pound Sterling exchange rate of Lloyds Bank PLC at the time of time of order placement. Exponential-e reserves the right to amend the US dollar Charges commensurately, should the US dollar to Pound Sterling exchange rate of Lloyds Bank PLC change by more than 7.5% (seven point five percent).

6. EXPONENTIAL-E'S OBLIGATIONS AND WARRANTIES

6.1   Exponential-e's obligation to provide the Service(s) is limited to an obligation to use all reasonable endeavours to provide the same. The Customer acknowledges and agrees that Exponential-e cannot (and does not) guarantee, represent or warrant that the Service(s) will be error-free or uninterrupted.

6.2   Exponential-e shall use all reasonable endeavours to meet the Target Service Commencement Date and any other dates or timescales set out in the Contract, but time shall not be the essence of the Contract.

6.3   Exponential-e shall use the reasonable care and skill expected of a competent information technology and telecommunications provider in exercising its rights, and carrying out its obligations, under the Contract.

6.4   Exponential-e warrants that it has the legal capacity and authority to enter into the Contract.

6.5   Exponential-e warrants that the Service(s) shall be provided in compliance with all applicable Laws.

6.6   Exponential-e is not responsible to the Customer for unauthorised access to Customer Content or the unauthorised access to, or use of, the Service(s) unless the unauthorised access or use results from Exponential-e's failure to meet any security obligations stated in the Contract.

7. CUSTOMER OBLIGATIONS AND WARRANTIES

7.1   The Customer shall:

7.1.1   follow Exponential-e's reasonable instructions and guidelines in relation to the Service(s), including any set out in the Documentation; and

7.1.2   provide Exponential-e with such up-to-date information, co-operation and support as Exponential-e may reasonably require pursuant to the Contract; and

7.1.3   appoint the Customer Contact and designate suitably knowledgeable, qualified and authorised employees, who have access rights to all of the Customer's relevant systems and Customer Equipment to provide co-ordination and assistance to Exponential-e. The Customer agrees and warrants that the Customer Contact and any additional or replacement nominated employees have the appropriate level of authority to make decisions relating to the Service(s). The Customer shall notify Exponential-e in writing of any updates required to such authorised personnel. Exponential-e shall have no liability for failure to deal with requests or respond to instructions from persons not appropriately authorised by the Customer in writing; and

7.1.4   maintain any Customer Equipment to a safe standard; and

7.1.5   ensure that any Customer Equipment located at an Exponential-e Site(s) is clearly labelled as belonging to the Customer; and

7.1.6   inform Exponential-e forthwith if the Customer Equipment is subject to interference or malfunctioning and it may, or is reasonably likely to, affect the Service(s); and

7.1.7   promptly provide sufficient technology to enable Exponential-e to provide remote support where it is necessary to do so; and

7.1.8   comply with the Portal Terms of Use; and

7.1.9   only use the Service(s) in accordance with the Acceptable Use Policy; and

7.1.10 use any Customer Equipment, Exponential-e Equipment in a skilful and proper manner by properly trained personnel; and

7.1.11 take all reasonable steps (including testing with the latest commercially available detection software) to ensure that any software used with or in conjunction with the Service(s) is not infected by Malicious Code; and

7.1.12 undertake any work required to be carried out by the Customer as specified in the Service Document in a timely manner; and

7.1.13 provide suitable space and environment for the Customer Equipment and the Exponential-e Equipment at the Customer Site(s) in a timely manner.

The Customer's compliance with this Clause 7.1 shall be entirely at the Customer's cost.

7.2 The Customer shall not (and shall procure that all users of the Service(s) for whom it is responsible pursuant to Clause 7.8 below shall not):

7.2.1 use the Service(s), Exponential-e Site, or Exponential-e Equipment in any way that violates any Laws, or act or omit to act in any way which will place Exponential-e in breach of any Laws including but not limited to the Communications Act 2003; and/or

7.2.2 use the Service(s), Exponential-e Site or Exponential-e Equipment in any way that 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); and/or

7.2.3 allow any unauthorised user or third party access to, or use of the Customer Equipment, the Exponential-e Equipment or the Service(s) and shall take all reasonable security measures to prevent the same; and/or

7.2.4 add to, modify or interfere in any way with the Exponential-e Equipment (if applicable), any equipment which is not Customer Equipment, or the Service(s); and/or

7.2.5 use the Exponential-e Equipment, the Customer Equipment, or the Service(s) in any way that:

7.2.5.1 would or may be harmful, or would or may be harmful or detrimental to the reputation of Exponential-e and/or its suppliers; and/or

7.2.5.2 do anything that may be dangerous or a nuisance or inconvenience to other users of Exponential-e's service(s).

7.3 The Customer warrants that any material and/or communication received, transmitted, hosted or otherwise processed using the Service(s) (other than entirely unsolicited communications) will not be menacing, of a junk-mail or spam-like nature, illegal, obscene, threatening, defamatory, discriminatory, promote illegal or unlawful activity, be otherwise actionable or in violation of any Laws to which the use of the Service(s) is subject, or infringe the Intellectual Property rights of Exponential-e or any third party.

7.4 The Customer shall indemnify and keep Exponential-e indemnified and hold Exponential-e harmless from and against all losses, liabilities, damages, costs, claims, demands and expenses arising out of, or in relation to, any breach by the Customer (including any user of the Service(s) for whom the Customer is responsible pursuant to Clause 7.8 below) of the provisions of Clauses 7.2.1, 7.2.2 and/or 7.3 above.

7.5 The Customer agrees to use the Service(s) solely in connection with its general business purposes. The Customer acknowledges that the Service(s) are not designed to be used in circumstances in which errors or inaccuracies in the content, functionality, services, data or information provided by the Service(s) or the failure of the Service(s), could lead to death, personal injury, or severe physical or environmental damage. Unless expressly authorized by Exponential-e in the Contract, the Customer agrees not to use the Service(s) for any such purpose.

7.6 The Customer warrants that it has the legal capacity and authority to enter into the Contract.

7.7 The Customer warrants it shall comply with all applicable Laws and any relevant licences and permits to operate the Customer Equipment and to provide the Customer Content to the extent required under the Contract.

7.8 The Customer is responsible for (and shall be liable to Exponential-e in respect of) the use of the Service(s) (including any incurred charges) by any of its employees and any other person who has been given access to the Service(s) by the Customer (including the Customer's customers), and any person who gains access to the Customer Content or the Service(s) as a result of the Customer's failure to use reasonable security precautions, even if such use was not authorised by the Customer.

8. STAFF AND CONTRACTORS

8.1 Exponential-e shall ensure that Exponential-e Personnel possess appropriate skills and experience. Exponential-e reserves the right to replace any Exponential-e Personnel at any time without the

Customer's consent.

8.2 Neither Party shall, without the other Party's prior written consent, actively initiate recruitment of any staff of the other Party directly involved in the provision and/or support of the Service(s) during the currency of the Contract and for a period of 12 months following termination.

9.   RISK, TITLE AND WARRANTY

9.1 On delivery of each item of the Exponential-e Equipment (if applicable), full risk of damage to, or loss of, such equipment shall pass to the Customer. The Customer shall be responsible for the safety, safe custody and safe use of the Exponential-e Equipment whilst it is in the Customer's custody and the Customer shall be liable to Exponential-e for any loss or damage to the Exponential-e Equipment except for (i) fair wear and tear and (ii) any loss or damage caused by the negligent act or omission of Exponential-e.

10.   INTELLECTUAL PROPERTY, CUSTOMER CONTENT, DATA PROTECTION AND CONFIDENTIALITY

10.1 The Intellectual Property within the Service(s) and the Documentation is held by Exponential-e or its third party licensors

10.2 Exponential-e shall indemnify the Customer in respect of all claims, losses, reasonable costs and reasonable expenses (including reasonable legal fees) that are made against, or incurred by, the Customer as the result of a claim by a third party that the provision of the Service(s) by Exponential-e to the Customer, infringes the Intellectual Property rights of any third party. Exponential-e shall only be liable to indemnify pursuant to this Clause provided that: (i) Exponential-e is promptly notified of any such claim; (ii) Exponential-e is given sole control of the claim and the freedom to defend or settle the claim as it deems fit; (iii) the Customer provides all reasonable assistance to Exponential-e at Exponential-e's cost in respect of the claim; (iv) the Customer makes no statements or admits any liability in respect of the claim; (v) the claim does not arise from the use of the Service(s) otherwise than as permitted under the Contract; (vi) the claim does not arise from the combining of the Service(s) with any services or equipment not supplied by Exponential-e; and (vii) the claim does not arise from any modification to the Service(s) not carried out or authorised in writing by Exponential-e.

10.3 The Customer shall indemnify and hold harmless Exponential-e in respect of all claims, losses, reasonable costs and reasonable expenses (including reasonable legal fees) that are made against, or incurred by, Exponential-e as a result of a claim by a third party that Exponential-e's installation, use, transmission, storage, possession or accessing of the Customer Equipment, Customer Content, material or third party software provided by the Customer in connection with the Service(s) infringes the Intellectual Property or other rights of a third party. The Customer shall only be liable to indemnify pursuant to this Clause provided that: (i) the Customer is promptly notified of any such claim; (ii) the Customer is given sole control of the claim and the freedom to defend or settle the claim as it deems fit; (iii) Exponential-e provides all reasonable assistance to the Customer at the Customer's cost in respect of the claim; (iv) Exponential-e makes no statements or admits any liability in respect of the claim.

10.4 The Customer and Exponential-e will each comply with the provisions of the Data Protection Act 1998 (the "Act") in relation to the processing of data received pursuant to the Contract. In relation to Customer Personal Data (defined within the Act) received by Exponential-e pursuant to the Contract, Exponential-e shall act as the "data processor" and the Customer shall be the "data controller" for the purposes of the Act. The Customer confirms that it has obtained all necessary consents from the data subjects concerned for the transfer of Personal Data to Exponential-e. The Customer agrees, subject to the requirements of this Clause, that although Exponential-e does not store Personal Data outside of the European Economic Area (EEA), Exponential-e Personnel working outside of the EEA may have access to the systems upon which the Personal Data is held. Exponential-e agrees and warrants that it will not provide access to Personal Data to any Exponential-e Personnel outside of

the EEA unless that person meets the requirements stated below during the entire time that it has access to such Personal Data:

10.4.1 the Exponential-e Personnel who may access the Personal Data is either (i) located in a country for which the European Commission has made a positive finding of adequacy, or (ii) the Exponential-e Personnel is located in the United States and has certified to the United States Department of Commerce "Safe Harbour Framework", and

10.4.2 the Exponential-e Personnel that have access to the relevant Exponential-e systems have signed a confidentiality agreement with Exponential-e containing substantially equivalent clauses regarding data protection and confidentiality.

10.5 Subject to Clauses 10.5.1 and 10.5.2 below, neither the Customer nor Exponential-e shall, without the other Party's prior written consent, disclose to any third party any Confidential Information of the other Party which comes to that Party's attention pursuant to the Contract. Each Party shall only use the Confidential Information of the other Party as reasonably required to exercise its rights and/or perform its obligations under the Contract and shall only disclose it to those of its employees, agents and contractors having a reasonable need to know pursuant to the Contract. Each Party shall use no lesser degree of care in respect of the other Party's Confidential Information than it uses in respect of its own Confidential Information and which in any event shall be not less than reasonable care. Upon termination of the Contract, if requested to do so by the other Party, a Party shall promptly return or certify destroyed all of the other Party's Confidential Information.

10.5.1 The Customer agrees that Exponential-e may disclose relevant information pertaining to the Contract and the Service(s), to any relevant third party (including but not limited to its suppliers and the Customer's landlords at the Customer Site(s) to the extent reasonably required by such third party in order to allow provision of the Service(s).

10.5.2 Each Party agrees that the other Party may disclose the Confidential Information belonging to the first party, required to be disclosed pursuant to any applicable law, court or regulatory authority. Each Party shall promptly notify the other Party of any such disclosure requirement to the extent that it is legally permissible to do so.

10.6 Each Party agrees that damages alone would not be an adequate remedy for any breach of Clause 10.5 and accordingly, without prejudice to any other rights or remedies available, each Party shall be entitled to seek injunctive or other equitable relief to prevent any breach or threatened breach of Clause 10.5 by the other Party.

10.7 Neither Party shall make, or permit any person to make, any public announcement concerning the Contract without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), except as required by law, any governmental or regulatory authority (including, without limitation, any relevant securities exchange), any court or other authority of competent jurisdiction.

10.8 Exponential-e maintains certain security procedures for the Customer Content while it is transmitted over equipment and facilities Exponential-e controls in line with its published accreditations. The Customer is responsible for management of the Customer Content transmitted by means of, the Service(s). Except to the extent included in the Service(s), as identified in the Contract, the Customer is responsible for developing and maintaining data management and security procedures the Customer deems appropriate, such as application logon security, encryption of data and Malicious Code protection, and retaining source documents and maintaining a procedure that will allow the Customer to recover lost or damaged data. EXPONENTIAL-E DOES NOT GUARANTEE THAT ITS SECURITY PROCEDURES WILL PREVENT THE LOSS OF, ALTERATION OF, OR IMPROPER ACCESS TO, CUSTOMER CONTENT.

11. SUSPENSION

11.1 Exponential-e may, without terminating the Service(s) or the Contract, suspend provision of any

Service(s), in whole or in part:

11.1.1   with immediate effect if the Customer is in breach of Clause 7.2.1, 7.2.2 and/or Clause 7.3; and/or

11.1.2   immediately upon written notice if the Customer is in breach of any other material obligation under the Contract and, in the case of remediable breach, the Customer fails to remedy that breach within five (5) Working Days of written notice of the breach; and/or

11.1.3   immediately upon written notice if the Customer becomes Insolvent; and/or

11.1.4   with immediate effect if the Customer's use of the Service(s) may damage or disrupt the proper functioning of the infrastructure and/or equipment used to provide services to Exponential-e's other customers; and/or

11.1.5   with immediate effect if Exponential-e is obliged to comply with the order, instruction or request of a court, government, emergency services organisation or other competent judicial, governmental, administrative or regulatory authority; and/or

11.1.6   for planned and emergency works in accordance with the Service Document; and/or

11.1.7   as reasonably required to prevent or mitigate any cyber-terrorism event or threat of cyber-terrorism.

11.2   Exponential-e's right to suspend a Service(s) pursuant to Clause 11.1 above is without prejudice to Exponential-e's termination rights under Clause 12 below, or any other right under the Contract or at law.

11.3   Where Exponential-e has suspended the Service(s) pursuant to Clause 11.1.1, 11.1.4, 11.1.5 or 11.1.7 above and it has not been practicable to provide written notice prior to such suspension, Exponential-e shall inform the Customer as soon as is reasonably practicable thereafter.

12.   TERM AND TERMINATION

12.1   Subject to earlier termination of the Contract in accordance with its terms, the Contract shall continue in force until the expiry of the Initial Term and thereafter unless or until terminated by either Party giving to the other Party

(i)   not less than three (3) months' prior written notice to expire no earlier than the end of the Initial Term or at any time thereafter for all Service(s) with the exception of Carrier EPL Services that are provided using a BT Openreach access circuit; or

(ii)   not less than one (1) months' prior written notice to expire no earlier than the end of the Initial Term or at any time thereafter for all Carrier EPL Services that are provided using a BT Openreach access circuit.

12.2   In the event that the Customer wishes to cancel a Service, the Customer shall send an email to cancellations@exponential-e.com specifying the Customer's name, the site (including postcode) at which the relevant Service(s) is provided, what the Service(s) is and any applicable service reference numbers. Exponential-e shall confirm such cancellation, and any relevant Termination Payment (defined below) to the Customer within 10 Working Days of receipt of such request.

12.3   Each Party shall have the right on immediate notice to the other Party, to terminate the Contract at any time in the event that the other Party:

12.3.1   has committed a material breach of the Contract (other than a failure on the part of the Customer to make payment of sums when due) and fails to remedy such breach within twenty-eight (28) days of notice from the other Party requiring the breach to be remedied. The aforementioned twenty-eight (28) day remedy period shall only apply where a breach is capable of remedy; if it is not capable of remedy, the Contract shall be terminable by immediate written notice; or

12.3.2   becomes Insolvent.

12.4   Exponential-e shall have the right on immediate notice to the Customer, to terminate the Contract at any time in the event that the Customer fails to make payment of any undisputed Charges by the Due Date and fails to remedy such breach within fourteen (14) days of notice from Exponential-e requiring the breach to be remedied.

12.5   Exponential-e shall have the right to terminate any Service and/or the Contract immediately upon

written notice if instructed to do so by a court of law, regulator or other appropriate authority.

12.6 Except in the event of termination of the Contract by the Customer pursuant to Clauses 12.3.1 or 12.3.2 above, or by Exponential-e pursuant to Clause 12.5 above, where a Service is terminated or otherwise brought to an end by the Customer, without cause, the Termination Payment shall be payable by the Customer.

For the purpose of this Clause, the Termination Payment shall mean:

(a) where termination occurs after the Service Commencement Date: (i) all arrears of Charges payable under the Contract up to the date of termination plus (ii) all remaining Charges not yet paid which would otherwise have been payable for the greater of the remainder of the Initial Term or the required three(3) month or one (1) month notice period (as applicable); or

(b) where the Service Commencement Date has not yet occurred: (i) the Non-Recurring Charges, plus (ii) $700 administration charge plus (iii) all charges incurred or committed to by Exponential-e with third party suppliers, plus (iv) any charges identified in the relevant Service Document as being recoverable pursuant to this sub-Clause provided always that the Termination Payment to be paid pursuant to this sub-clause does not exceed the total Charges which would otherwise by payable by the Customer in respect of the Initial Term.

The Customer acknowledges and agrees that the Termination Payment is based upon Exponential-e's revenue expectation which was reflected in the Charges and is compensatory in nature and not a penalty.

12.7 Termination of a Service and/or the Contract shall be without prejudice to the accrued rights and liabilities of either Party subsisting under the Contract prior to termination.

12.8 Upon termination of a Service and/or the Contract for any reason:

12.8.1 the Customer shall immediately cease to make use of the relevant Service(s) and the Exponential-e Equipment (if applicable); and

12.8.2 the Customer shall, within five (5) Working Days of termination of the Contract, return to Exponential-e by same day courier any Exponential-e Equipment (if applicable) or pay Exponential-e for the Exponential-e Equipment at its then-current new purchase price if not so returned.

12.9 Following termination of the Contract (other than by Exponential-e pursuant to Clause 12.3.1, Clause 12.3.2 or Clause 12.4 above) and provided that the Customer's account is fully paid-up, Exponential-e will:

12.9.2 promptly refund to the Customer any Annual Charges paid in advance relating to the period after the effective date of termination, calculated on a pro-rata temporis basis.

12.10 Clause 5 (Fees and Payment), Clause 7 (Customer Obligations), Clause 8.2 (non-solicitation), Clause 10 (Intellectual Property, Customer Content, Data Protection and Confidentiality), Clauses 12.8 and 12.9 (actions following termination) Clause 13 (Force Majeure, Warranties and Limitation of Liability) and Clause 15 (Disputes, Jurisdiction and Governing Law) and other terms and conditions forming part of the Contract which are agreed by the Parties to survive termination or which by their nature are clearly intended by the Parties to survive termination, shall survive and continue in full force and effect.

13. FORCE MAJEURE, WARRANTIES AND LIMITATION OF LIABILITY

13.1 Neither Party shall be liable for any delay or failure in performing its obligations under the Contract caused by a Force Majeure Event. A Party affected by a Force Majeure Event shall serve prompt written notice of the Force Majeure Event and its expected duration on the other Party and shall take all reasonable steps to mitigate the effects of the same.

13.2 THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THE PROVISIONS OF CLAUSES 13.3 TO 13.8 INCLUSIVE.

13.3 ALL WARRANTIES, CONDITIONS, OBLIGATIONS AND TERMS WHICH WOULD OTHERWISE BE IMPLIED INTO THE CONTRACT BY STATUTE, CUSTOM OR LAW (INCLUDING, WITHOUT LIMITATION, IMPLIED

WARRANTIES WITH RESPECT TO MERCHANTABILITY, FITNESS FOR PURPOSE AND SATISFACTORY QUALITY), ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

13.4   NEITHER PARTY EXCLUDES OR LIMITS THEIR LIABILITY UNDER THE CONTRACT:

13.4.1   FOR DEATH OR PERSONAL INJURY CAUSED BY ITS (OR ITS EMPLOYEES', AGENTS' OR CONTRACTORS') NEGLIGENCE; AND

13.4.2   FOR FRAUDULENT MISREPRESENTATION; AND

13.4.3   FOR BREACH OF THE DATA PROTECTION AND/OR CONFIDENTIALITY OBLIGATIONS SET OUT IN CLAUSE 10); AND

13.4.4   TO INDEMNIFY THE OTHER PARTY PURSUANT TO THE CONTRACT; AND

13.4.5   TO MAKE ANY TERMINATION PAYMENT DUE PURSUANT TO CLAUSE 12.6 ABOVE.

13.5   WITHOUT PREJUDICE TO CLAUSE 13.4 ABOVE, EACH PARTY'S ENTIRE LIABILITY FOR DAMAGE TO THE TANGIBLE PROPERTY OF THE OTHER PARTY, CAUSED BY ITS NEGLIGENCE (OR THE NEGLIGENCE OF ITS EMPLOYEES', AGENTS' AND CONTRACTORS), SHALL NOT IN ANY EVENT EXCEED ONE MILLION US DOLLARS ($1,000,000) PER EVENT OR SERIES OF CONNECTED EVENTS AND TWO MILLION US DOLLARS ($2,000,000) IN THE AGGREGATE FOR ALL EVENTS IN ANY 12 MONTH PERIOD.

13.6   WITHOUT PREJUDICE TO CLAUSE 13.4 ABOVE, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY

- LOSS OF PROFITS,
- LOSS OF BUSINESS OPPORTUNITY,
- LOSS OF REVENUE,
- LOSS OF ANTICIPATED SAVINGS
- WASTED EXPENDITURE
- DEPLETION OF GOODWILL
- LOSS OF USE
- LOSS AND/OR CORRUPTION OF DATA OR INFORMATION
- ANY SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS, COST, DAMAGE, CHARGE OR EXPENSE

13.7   ANY LIABILITY OF EITHER PARTY TO THE OTHER PARTY WHICH IS NOT (I) UNLIMITED UNDER CLAUSE 13.4 ABOVE, (II) NOT CAPPED UNDER CLAUSE 13.5 ABOVE AND (III) NOT EXCLUDED UNDER CLAUSE 13.6 ABOVE, SHALL NOT IN ANY EVENT EXCEED IN THE AGGREGATE IN ANY 12 MONTH PERIOD THE GREATER OF (I) 150% OF THE TOTAL CHARGES PAID BY THE CUSTOMER UNDER THE CONTRACT IN THE 12 MONTHS PRECEDING THE DATE OF THE RELEVANT CLAIM; AND (II) FIVE THOUSAND US DOLLARS ($5,000) REGARDLESS OF WHETHER SUCH LIABILITY ARISES FROM A BREACH OF CONTRACT, IN TORT OR OTHERWISE.

13.8   THE CUSTOMER ACKNOWLEDGES AND AGREES THAT THE CHARGES REFLECT THE LEVEL OF LIABILITY UNDERTAKEN BY EXPONENTIAL-E AND THAT THE EXCLUSIONS AND LIMITATIONS CONTAINED IN THIS CLAUSE 13 ARE REASONABLE GIVEN THE CHARGES THAT ARE PAYABLE.

14.   GENERAL

14.1   Unless otherwise stated in the Contract, the Contract may only be modified by the written and signed agreement of the Parties.

14.2   Exponential-e shall have the right, by serving notice to the Customer, to amend the Contract at any time when this is required to comply with any applicable statutory or regulatory requirements.

14.3   Exponential-e may enter into subcontracts for the performance of its obligations under the Contract. Exponential-e shall be vicariously liable for the acts and omissions of its contractors acting in the course of their engagement by Exponential-e.

14.4   Neither Party shall at any time assign or transfer (or purport to assign or transfer) the Contract and/or any of its rights or obligations thereunder, in whole or in part, without the prior written consent of the other Party (such consent not to be unreasonably withheld or delayed), save that Exponential-e may at any time assign or transfer the Contract and/or any of its rights or obligations

thereunder, in whole or in part to any Affiliate of Exponential-e; or to any successor to Exponential-e following a re-organisation or merger of Exponential-e with another organisation; upon notice but without consent.

14.5 No delay, neglect or forbearance by either Party in enforcing its rights under the Contract shall be deemed to be a waiver of, or prejudice, such rights.

14.6 Any notice or other communication required to be given to a Party under, or in connection with, this Contract, shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service providing proof of delivery, at its registered office (if a company) or (in any other case) its principal place of business, or sent by fax to the other Party's main fax number. Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt, or if sent by fax, at 9.00 am on the next Working Day after transmission, or otherwise at 9.00 am on the second Working Day after posting (or at the time recorded by the delivery service).

14.7 If any part of the Contract is held by the courts to be unlawful, invalid or unenforceable, that part shall be considered struck-out and the remainder of the Contract shall remain in full force and effect. Exponential-e and the Customer shall work together in good faith to agree an enforceable replacement provision capturing the spirit of the original.

14.8 The Contract supersedes any prior contracts, arrangements and undertakings between the Parties in relation to the subject-matter thereof and constitutes the entire agreement of the Parties relating to the subject-matter thereof. No terms and conditions set out on any Customer paperwork submitted to Exponential-e pursuant to the Contract shall have any force or effect. The Customer shall have no remedy in respect of any statement made to it upon which it relied when entering into the Contract, unless such statement was made fraudulently by Exponential-e.

14.9 The Parties agree that signed Contract documents delivered by electronic means shall have the same force and effect as signed originals.

14.10 The Parties expressly acknowledge and agree: (i) a human readable electronic version of the Contract documents containing the Parties' Electronic Signatures, or containing a mix of physical signatures and Electronic Signatures, shall constitute an original version of such Contract documents; (ii) a Party's use of a key pad, mouse or other device to select an item, button, icon or similar act/action, to otherwise insert their Electronic Signature into Contract documents constitutes that Party's signature as if it had manually signed the same; and (iii) Exponential-e's chosen Electronic Signature software shall be accepted as a valid and the solely-required authentication technology.

14.11 Both Parties shall:

14.11.1 comply with the Bribery Act 2010 at all times and shall not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK; and

14.11.2 promptly report to the other Party any request or demand which if complied with would amount to a breach of Contract or would not be compliant with the Bribery Act 2010.

14.12 Breach of Clause 14.11 shall be deemed a material breach of the Contract which is not capable of remedy.

15. DISPUTES, JURISDICTION AND GOVERNING LAW

15.1 Following written notice of a dispute under the Contract, the Parties shall attempt to resolve any such dispute through negotiations between senior executives of the Parties who have authority to settle the same.

15.2 If the dispute has not been resolved by such senior executives within thirty (30) days of the initiation of that procedure, the dispute may be referred by either Party to the English courts and the Parties hereby submit to the exclusive jurisdiction of the courts of England.

15.3 The Contract shall be governed by, and interpreted in accordance with, the laws of England and

Wales.

15.4   The Contract is personal to the Customer and Exponential-e. The Contracts (Rights of Third Parties) Act 1999 shall not apply to the Contract and unless specifically provided for in the Contract, no entity other than the Customer and Exponential-e shall have any rights or obligations under the Contract and no entity other than the Customer and Exponential-e shall have the right to enforce the Contract or have it enforced against them.