

GLOBALCOM SATELLITE
Standard Terms and Conditions

1. DEFINITIONS

- 1.1 "Acceptable Use Policy" means any set of policies or guidelines applicable to an Internet network or site specifying what use may be made of network facilities.
- 1.2 "Access Circuit" means any communications line or data port supplied or made available by GLOBALCOM SATELLITE or its sub-contractors for the purpose of providing Service(s) to the Customer.
- 1.3 "Access Equipment" means the Access Router and any Access Circuit used by GLOBALCOM SATELLITE to provide Service(s) to the Customer.
- 1.4 "Access Router" means a router used to route IP packets which contain data in a form suitable for transmission over the Internet, including source and destination IP addresses, between GLOBALCOM SATELLITE' Service(s) and the Customer's network.
- 1.5 "Commencement Date" means the date when the Customer accepts or is deemed to accept the Service, under clause 4.
- 1.6 "The Customer" means the person or company who contracts with GLOBALCOM SATELLITE for the Service(s) under this Agreement, and where one person or company contracts with GLOBALCOM SATELLITE on behalf of or as a dealer for another, the Customer shall include all those persons or companies. This is to include all users, connected networks and Service Delivery Points as activated with an Activation form.
- 1.7 "Customer Premises Equipment" or "CPE" means any equipment, cabling and systems provided by GLOBALCOM SATELLITE (or its subcontractors) which is to be installed at the Customer's premises, or Service Delivery Point, in order to make available the Service(s) to the Customer. For the avoidance of doubt, CPE shall not include any equipment which is the subject of a separate supply contract between GLOBALCOM SATELLITE and the Customer.
- 1.8 "The Internet" means the global data network consisting of interconnected networks which communicate using TCP/IP ("Transmission Control Protocol/Internet Protocol") and related Internet Protocols.
- 1.9 "Internet Protocols" or "IP" means the protocols and standards defined from time to time by RFCs and Standards documents issued by the IETF (Internet Engineering Task Force).
- 1.10 "Internet Service(s)" means the service(s) provided by GLOBALCOM SATELLITE hereunder whereby the Customer may (subject to this Agreement) gain access to any part(s) of the Internet using GLOBALCOM SATELLITE' Access Equipment.
- 1.11 "Satellite Operator" means the operator of the satellite which GLOBALCOM SATELLITE has access to in order to provide the Internet Service(s).
- 1.12 "Scheduled Start Date" means the estimated Commencement Date (as per Clause 4) stated in a Activation form.
- 1.13 "Service(s)" means the specific Internet Service(s) supplied by GLOBALCOM SATELLITE to the Customer consisting in access to the Internet on a two-way (asymmetric duplex) basis, delivered to the Customer as a broadcast using Ku- or C-band capacity on satellites of GLOBALCOM SATELLITE' choice at a net data rate not exceeding that stated in the agreed Activation form. GLOBALCOM SATELLITE reserves the right to substitute alternative Ku- or C-band satellite capacity to continue service as required from time to time.
- 1.14 "Activation form" means the form specifying the Service(s) which the Customer wishes to obtain from GLOBALCOM SATELLITE.
- 1.15 "Service Delivery Point" means the exact location where the GLOBALCOM SATELLITE Service(s) specified in an Activation form is/are delivered by GLOBALCOM SATELLITE to or on behalf of the Customer. All Service Delivery Points must be clearly stated in each Activation form together with full contact details.
- 1.16 "Tariff Details" means the charges for the Service and any CPE (hardware) as set out on the Activation form or quoted to the customer on the Pro Forma invoice.
- 1.17 "User" means any third party connected to the Customer's network.
- 1.18 "Working Hours" means the hours between 9:00 hours and 17:00 hours in South African local time, every day excluding Saturdays, Sundays and national holidays in South Africa.

2. SERVICE(S)

- 2.1 Any Activation form issued by GLOBALCOM SATELLITE or the Customer shall be subject to the Terms and Conditions of this Agreement and the Tariff Details.
- 2.2 An Activation form shall be deemed to be accepted by GLOBALCOM SATELLITE when the Customer has received written (e-mail) acknowledgement of the form from GLOBALCOM SATELLITE.
- 2.3 In order that it may continue to maintain a high quality Service(s), GLOBALCOM SATELLITE reserves the right at all times to change or alter the configuration of the Service(s) or CPE provided under this Agreement. GLOBALCOM SATELLITE shall, where practicable, use reasonable efforts to give at least thirty (30) calendar days' prior written notice to the Customer of such change or alteration. The Service provided will continue to be that stated on the relevant Activation form.
- 2.4 GLOBALCOM SATELLITE may without notice and from time to time change or alter the networks to which GLOBALCOM SATELLITE connects the Customer.

3. DELIVERY

- 3.1 Prior to delivery of the Service(s) the Customer will where necessary (and unless otherwise agreed in writing with GLOBALCOM SATELLITE) at its own expense prepare its premises for installation of any CPE providing all necessary electrical and other connections, fittings, facilities, and equipment as recommended by GLOBALCOM SATELLITE within the time limit stated by GLOBALCOM SATELLITE in the Activation form, and including moving the CPE to its final location unpacked ready for installation. GLOBALCOM SATELLITE shall not be liable for any failure or delay in delivering Service as a result of any failure in the Customer network and equipment.
- 3.2 GLOBALCOM SATELLITE shall not be bound by any delivery date but shall use its reasonable endeavors to provide Service(s) without unnecessary delay.



- 3.3 GLOBALCOM SATELLITE shall not be responsible for delays in delivery of the Service (s) caused by:
- 3.3.1 data carriers or telephone companies providing access circuits;
 - 3.3.2 any default of the Customer;
 - 3.3.3 the management of the Customer's premises; or
 - 3.3.4 any reason beyond GLOBALCOM SATELLITE' control.
- 3.4 Delivery dates will only be arranged on the date of receipt and acceptance of the Activation form from the Customer by GLOBALCOM SATELLITE.
- 3.5 GLOBALCOM SATELLITE reserves the right to terminate any Services, prior to the Commencement Date on notice to the Customer. Any payment already received from the Customer will be refunded in full after deduction of any sums owed to GLOBALCOM SATELLITE.

4. ACCEPTANCE AND COMMENCEMENT

- 4.1 The Customer shall notify GLOBALCOM SATELLITE within twelve (12) Working Hours of installation of a Service of any defect, fault, or impairment in the Service(s) in writing describing the fault. GLOBALCOM SATELLITE will use reasonable efforts to remedy such defects, faults, or impairment and the Service(s) shall be accepted by the Customer when the defect(s), fault(s) or impairment has been remedied, except as provided in Clause 5.2.
- 4.2 Notwithstanding Clause 4.1, the Service will be deemed to be accepted and to have commenced if
- 4.2.1 GLOBALCOM SATELLITE, having installed an Access Router as part of CPE, can communicate with that Access Router using Internet Protocols; or
 - 4.2.2 If GLOBALCOM SATELLITE has not supplied an Access Router as part of CPE, GLOBALCOM SATELLITE engineers can communicate using Internet Protocols with test equipment installed by GLOBALCOM SATELLITE engineers at the Customer's location and connected to the Access Circuit, or any access circuit made available by the Customer; or
 - 4.2.3 the Customer fails to provide GLOBALCOM SATELLITE engineers with access to the Customer's premises to allow them to test the Service(s) on delivery

5. TERM AND TERMINATION

- 5.1 This Agreement shall be effective for the period (Initial Term) specified on the Activation form, and shall automatically be renewed thereafter for one year unless agreed otherwise and unless one party gives 90 days' written notice to terminate the Agreement to the other.
- 5.2 GLOBALCOM SATELLITE may terminate this Agreement forthwith or withdraw or suspend the Service(s) hereunder at any time and keep any deposit payments, upon:
- 5.2.1 any failure by the Customer to pay any amounts in accordance with this Agreement;
 - 5.2.2 any breach by the Customer of any material provision of this agreement continuing for fourteen (14) calendar days after receipt of written notice from GLOBALCOM SATELLITE;
 - 5.2.3 if the Customer becomes insolvent or circumstances arise which entitle the court or a creditor to appoint a receiver, administrative receiver or administrator to enter a winding up petition or make a winding up order.
 - 5.2.4 If the Customer is not able or not ready to start Service within 3 months of the date of any Activation form(s).
- 5.3 Termination shall not relieve the Customer of its obligation to pay any charges or other sums incurred to date of termination.
- 5.4 If the accumulative availability of the Service provided by GLOBALCOM SATELLITE falls below ninety-nine-point-six percent (99.6%) of the term stated in the Activation form, however subject to the terms and conditions as stipulated in the Service Level Agreement, the Customer may terminate that specific Activation form forthwith, although the full Agreement will continue to be effective. Non-availability will be assessed on notified periods of interruption ("Interruption Notice"), where interruption(s) are due to the Service provided by GLOBALCOM SATELLITE.



6. SERVICE MAINTENANCE

Maintenance shall be necessary from time to time to ensure a high-quality Service(s). GLOBALCOM SATELLITE shall give written notification to the Customer of all maintenance, alteration or suspensions which may affect the Customer. Such notification may be made by email to the address specified on the Activation form, but may also be made by fax or by post to the fax number or address specified on the Activation form. If possible, such notice shall be given seven (7) days in advance.

GLOBALCOM SATELLITE shall use its reasonable endeavors to carry out maintenance, alterations or suspensions outside Working Hours. Maintenance may impair or result in temporary suspension of Service(s) to the Customer for which GLOBALCOM SATELLITE shall not be liable.

7. FAULT RESOLUTION

- 7.1 If the Customer becomes aware of and notifies GLOBALCOM SATELLITE of a defect, fault or impairment in the provision of the Service(s) other than under Clause 6 GLOBALCOM SATELLITE shall use its reasonable efforts to resolve the defect, fault or impairment as quickly as reasonably possible.
- 7.2 If the defect, fault or impairment is a result of: (i) the negligence, willful acts, omissions, or faults of the Customer or (ii) the Customer's breach of this Agreement, or (iii) the failure or malfunction of Customer Equipment, then GLOBALCOM SATELLITE may recover from the Customer all reasonable costs incurred in remedying the defect, fault or impairment.
- 7.3 GLOBALCOM SATELLITE shall use all reasonable measures in conjunction with the Satellite Capacity provider to promptly resolve any operational problem in the provision of satellite capacity used in the Service, including in the case of permanent failure of the satellite the availability of alternative satellite capacity; in such event GLOBALCOM SATELLITE reserves the right to amend the Service price. If the Satellite operational difficulty cannot be resolved resulting in permanent loss of Service, GLOBALCOM SATELLITE will reimburse to the Customer any service fees paid in advance from the date of that outage or failure.
- 7.4 All stipulations in clause 7 are subject to the conditions as outlined in the Service Level Agreement.

8. CUSTOMER PREMISES EQUIPMENT

- 8.1 GLOBALCOM SATELLITE or its subcontractors may substitute, change, rearrange or reconfigure any CPE at any time, but shall not alter the technical functionality of the Service(s) except where such alteration is made under Clause 2.3.
- 8.2 If possible, GLOBALCOM SATELLITE shall give the Customer fourteen (14) days prior notice of any substitution, change, rearrangement or reconfiguration of any CPE under clause 8.1.
- 8.3 Until such time that payment for CPE is made in full to GLOBALCOM SATELLITE, GLOBALCOM SATELLITE shall at all times own and retain title to CPE and the Customer shall not create or allow any charges, liens, or other encumbrances whatsoever over any CPE.
- 8.4 The Customer may be required to pay additional installation charges and Service(s) support costs if it wishes to relocate the Service(s).
- 8.5 GLOBALCOM SATELLITE reserves the right to charge for any required CPE service or maintenance.

9. SERVICE SUSPENSION

- 9.1 GLOBALCOM SATELLITE may at its sole discretion suspend the Service(s) until further notice in the event that (i) GLOBALCOM SATELLITE is entitled to terminate any Agreement (based on the activation form), and any exercise by GLOBALCOM SATELLITE of its right of suspension under this Clause shall not exclude or in any way affect GLOBALCOM SATELLITE' right subsequently to terminate this Agreement; or (ii) GLOBALCOM SATELLITE is obliged to comply with an order, instruction or request of Government, an emergency service organisation or other competent administrative authority; or (iii) if outstanding amounts due under this agreement to GLOBALCOM SATELLITE are not paid.
- 9.2 At a time agreed between the Parties GLOBALCOM SATELLITE may suspend the Service(s) in the event that GLOBALCOM SATELLITE needs to carry out maintenance pursuant to Clauses 6 or 8 of this Agreement.
- 9.3 Where the suspension is implemented under clause 9.1(iii), the Customer shall at GLOBALCOM SATELLITE' option pay GLOBALCOM SATELLITE' reasonable costs and expenses incurred in the suspension and/or recommencement of the Service(s). The parties agree that a fee equivalent to one month's service charge, with a minimum of \$ 150,- is a reasonable estimate of such costs and expenses.

10. WARRANTIES

- 10.1 Save to the extent that they are expressed in this Agreement, all representations, conditions, warranties and terms relating to this Agreement or the Service(s) (whether statutory or otherwise, and including, without limitation, any as to the fitness for a particular purpose, satisfactory quality or merchantability of any thereof) are hereby excluded by GLOBALCOM SATELLITE to the fullest extent permitted by law.
- 10.2 Unless (and to the extent) otherwise agreed in writing between the Parties, time shall not be of the essence of the performance by GLOBALCOM SATELLITE of any of its obligations under this Agreement.

11. LIABILITY

- 11.1 Nothing in this Agreement shall limit GLOBALCOM SATELLITE' liability to the Customer for death or personal injury resulting from GLOBALCOM SATELLITE' negligence.



11.2 Except for GLOBALCOM SATELLITE' liability to the Customer under Clause 11.1 (to which no limit applies), GLOBALCOM SATELLITE' liability arising under or in connection with this Agreement (whether such liability arises from negligence, breach of contract or howsoever) in respect of each event or series of connected events shall not exceed the greater of:

11.2.1 The total amounts paid by the Customer under Clause 15.1 in the quarter when such event (or the first event in any series of connected events) occurs.

11.3 Notwithstanding Clause 11.2, GLOBALCOM SATELLITE will not be liable to the Customer or any third party for or in respect of any indirect or consequential loss or damage (whether financial or otherwise), or for any loss of data, profit, revenue, contracts or business, howsoever caused (whether arising out of any negligence or breach of this Agreement or otherwise), even if the same was foreseeable by, or the possibility thereof is or has been brought to the attention of, GLOBALCOM SATELLITE.

11.4 No action or proceeding against GLOBALCOM SATELLITE arising out of or in connection with this Agreement shall be commenced more than one year after the Service(s) rendered, and the Parties acknowledge that this Clause constitutes an express waiver of any rights under any otherwise-applicable longer statute of limitations.

12. CUSTOMER OBLIGATIONS

12.1 With at least two days' notice by GLOBALCOM SATELLITE, the Customer shall allow GLOBALCOM SATELLITE and its subcontractor's continuous access and right-of-way to the Customer's premises appropriate and necessary to the provision and maintenance of the Service(s) and any CPE. The Customer shall furnish GLOBALCOM SATELLITE and its subcontractors, at no charge, such equipment, space and electrical power as is reasonably required by GLOBALCOM SATELLITE and its subcontractors to enable GLOBALCOM SATELLITE to render the Service(s).

12.2 Until such time that payment for CPE is made in full to GLOBALCOM SATELLITE, the Customer shall be liable for any and all damages to any CPE which is caused by (i) any breach of terms of this Agreement by the Customer or the negligent or willful acts or omissions of the Customer; or (ii) malfunction or failure of any equipment or facility provided by the Customer or its agents, employees or suppliers, including but not limited to the Customer's own equipment.

12.3 The Customer is responsible for identifying, monitoring, removing and disposing of any hazardous materials which it is required to remove by law prior to any construction or installation work being performed by GLOBALCOM SATELLITE or its subcontractors, and the Customer shall indemnify, keep indemnified, defend and hold GLOBALCOM SATELLITE harmless from any liability incurred in the use of or in connection with hazardous materials on the Customer's premises.

12.4 The Customer shall provide to GLOBALCOM SATELLITE information which GLOBALCOM SATELLITE may reasonably require in order to provide the Service(s) and the Customer shall at its own expense modify its equipment to be used in conjunction with the Service(s) as required by GLOBALCOM SATELLITE and ensure that its equipment complies with national law.

12.5 The Customer shall comply with the Standard Operating Terms and Satellite Access requirements published by the Satellite Operator. And the Customer shall indemnify GLOBALCOM SATELLITE against any loss or claim suffered by GLOBALCOM SATELLITE as a result of the Customer's failure to comply with this clause 12.5.

12.6 The Customer shall procure and maintain all necessary licenses, waivers, consents or registrations necessary for its use of the Service(s) or to deliver, install, and keep installed any CPE at the Customer's premises. GLOBALCOM SATELLITE shall have no liability whatsoever in any case where such notification is not given or such permission or co-operation is not obtained and the Customer indemnifies GLOBALCOM SATELLITE against any cost, claim or liability arising as a result.

12.7 The Customer will be responsible for all CPE operation, repair and component replacement.

12.8 The Customer undertakes:

12.8.1 to house any CPE in accordance with GLOBALCOM SATELLITE' instructions as may be notified to the Customer from time to time; this shall include, but not be limited to, the provision of electrical power to any CPE (as specified in the appropriate Activation form(s)) at the Customer's expense. GLOBALCOM SATELLITE shall not be liable for any fault, interruption or impairment of Service(s) due to failure of the supply of electrical power to any CPE or Customer's equipment used in the Service.

12.8.2 to keep any CPE at the Customer's premises stationary at all times, and not to add, modify, relocate, reconfigure or in any way interfere with any CPE;

12.8.32 to permit GLOBALCOM SATELLITE or its subcontractors to inspect or test any CPE at all reasonable times and on notice to the Customer;

12.8.4 on termination of this Agreement, to yield up any CPE not paid for in full in a good state of condition and repair to GLOBALCOM SATELLITE and to allow GLOBALCOM SATELLITE or its subcontractors access to the Customer premises to remove any CPE. If the Customer fails to return the CPE under this clause, it shall be liable for the replacement value of it.

12.9 The Customer shall advise GLOBALCOM SATELLITE of all health and safety at work rules and regulations and any other reasonable security requirements applicable at the Customer's premises. GLOBALCOM SATELLITE shall observe and ensure that its employees and authorised representatives observe such regulations while at the Customer's premises. GLOBALCOM SATELLITE shall not be liable to provide or to restore Service(s) if to do so would render it in breach of such regulations and it shall accordingly not be liable for any breach of this Agreement as a result.

12.10 The Customer shall comply with the IP address allocation rules set out by RIPE, and to complete and submit form ripe.137 (or any form which might supersede that form) where necessary on request.

12.11 The Customer shall provide a support and fault reporting function for the provision of support to Users who must be required and directed to use this route to report all faults, queries and complaints. For the avoidance of doubt, GLOBALCOM SATELLITE shall have no responsibility for provision of support to Users. The Customer undertakes to comply with GLOBALCOM SATELLITE' Acceptable Use Policy under Clause 14 (as amended or supplemented by notice to the Customer in writing).

- 12.12 The Customer undertakes to include in its contracts with its Users, connected networks and all Service Delivery points, which send or receive data using Access Equipment provided by GLOBALCOM SATELLITE terms of use equivalent to those in this Clause 12 and Clause 14
- 12.13 The Customer undertakes to indemnify and keep indemnified GLOBALCOM SATELLITE against any prosecution, civil or criminal, all costs, claims, demands, actions and proceeding which may be brought or threatened against GLOBALCOM SATELLITE by any User or third party as a result of the connection of their networks to the Customer's network, expressly including, but not limited to, uses of the Internet which are in breach of the undertakings contained in this Clause 12 or in Clause 14. The Customer undertakes to indemnify GLOBALCOM SATELLITE against any prosecution, civil or criminal, all costs, claims, demands, actions and proceedings which may be brought or threatened against GLOBALCOM SATELLITE by the third party which arise from the Customer's use of Service(s) or any User's use of the Internet Service(s). This Clause 12 shall survive termination of this Agreement.
- 12.14 The Customer undertakes to indemnify GLOBALCOM SATELLITE against any prosecutions, civil or criminal, which result from use of the Service(s) or Internet Service(s) by a third party.
- 12.15 Intellectual property rights in all software supplied to the Customer remain the property of GLOBALCOM SATELLITE or its relevant licensor. The Customer agrees to comply with the terms of any agreement required by the owner of intellectual property rights in all software supplied to the Customer for the protection of that software.
- 12.16 If Service(s) and Internet Service(s) comprises equipment, software, services, technical information, training materials or other technical data, which, because of their origin or otherwise are subject to UK export control regulations or the laws or regulations of another country, provision of Service(s) and Internet Service(s) shall be conditional upon the parties obtaining and providing all necessary consents. The parties shall provide reasonable assistance to each other to obtain such consents. The Customer undertakes to comply with any applicable export or re-export laws and regulations, including but not limited to obtaining written authority from the NL government as appropriate if the Customer intends at any time to re-export any items of NL origin to any proscribed destination.
- 12.17 Neither party shall be entitled to use the name, mark or logo of the other party in any publicity, advertising or press releases without that party's prior written consent.

13. INTERNET PROTOCOL ADDRESSES

- 13.1 Any Internet Protocol Addresses ("IP Addresses") assigned to Customer in connection with a Service shall be Provider Aggregate to be used only in connection with that Service. If the Customer discontinues use of a Service for any reason, or this Agreement expires or is terminated for any reason, Customer's right to use the IP Addresses shall terminate and the IP Addresses shall immediately be returned to GLOBALCOM SATELLITE. GLOBALCOM SATELLITE reserves the right to suspend the applicable Service or terminate this Agreement upon written notice for any breach of this clause 13.

14. ACCEPTABLE USE POLICY

- 14.1 The Service(s) may not be used to send or receive any material which is offensive, abusive, indecent, obscene, or menacing; or in breach of confidence, copyright, privacy or any other rights, or to send or receive any material the sending or reception of which transgresses any laws of the Netherlands or any other territory relevant to the Service(s), whether Civil or Criminal.
- 14.2 The Service(s) must be used as required by the Acceptable Use Policies of any connected networks and the Internet Protocols.

15. PAYMENT

- 15.1 The Customer shall pay GLOBALCOM SATELLITE for the Service(s) in accordance with the rates and in the manner set out by the Activation form and the Tariff Details. Service(s) are billed yearly in advance for the Service(s) provided during the year, unless otherwise stated in the relevant Activation form. Additionally, prior to the Commencement date on any Activation form(s), the Customer shall pay a deposit equal to one month's charges and GLOBALCOM SATELLITE may set any outstanding amounts off to the deposit at any time. The Service deposit less any applicable deduction(s) will be paid by GLOBALCOM SATELLITE to the Customer without delay at the end of the Term and after all invoiced Service payments are received by GLOBALCOM SATELLITE.
- 15.2 GLOBALCOM SATELLITE reserves the right to accept Activation forms for additional or replacement Services. Each Activation form shall define pricing and payment terms for the Service requested; GLOBALCOM SATELLITE reserves the right to amend tariff details, pricing and payment terms defined in each Activation form from time to time.
- 15.3 The Customer shall pay GLOBALCOM SATELLITE for CPE in accordance with the rates and in the manner set out by the Activation form and the Tariff Details. The Customer shall pay the total CPE value in full prior to the Commencement date of this Agreement or any additional activation form.
- 15.4 GLOBALCOM SATELLITE reserves the right to charge interest on all outstanding amounts. Until payment in full is received by GLOBALCOM SATELLITE, interest shall be charged at a rate equal to two (2) percentage points calculated per month on a compound interest basis either before or after such judgment regardless of termination of this Agreement. The Customer shall also pay all applicable legal fees and other collection costs if any. Until payment in full is received by GLOBALCOM SATELLITE, GLOBALCOM SATELLITE may suspend Service(s) During suspension, charges for Service(s) shall still accrue.
- 15.5 All deposits held are fully refundable only once the account is paid up in full. The deposit held may not be used to off-set payments unless agreed so in writing by GLOBALCOM SATELLITE.
- 15.6 The Customer is responsible for all charges from the Commencement date until the agreed termination date.



- 15.7 All amounts due to GLOBALCOM SATELLITE under this Agreement are exclusive of all applicable taxes (including, but not limited to, Value Added Tax) relating to charges payable by the Customer or the Service(s) provided to the Customer which may be payable or from time to time be introduced and which shall be charged to and paid by the Customer.
- 15.8 GLOBALCOM SATELLITE reserves the right to exercise a yearly indexation, at the beginning of a new calendar year.
- 15.9 All amounts due to GLOBALCOM SATELLITE under this Agreement shall be paid by the Customer in full (without any set-off, bank charges, deductions or withholdings whatsoever) by electronic transfer or such other method as may reasonably be specified by GLOBALCOM SATELLITE from time to time. If the invoice being paid is not evident in the remittance information, the payment will be applied to the oldest balance due to GLOBALCOM SATELLITE. Unless otherwise agreed by GLOBALCOM SATELLITE in writing, payment shall be made in \$ (USD) to GLOBALCOM SATELLITE, prior to the activation of the account.

16. CONFIDENTIALITY

Each party agrees to maintain in strict confidence all plans, designs, drawings, trade secrets, business and other proprietary information of the other party which is disclosed pursuant to this Agreement. Neither party shall disclose to any third party such confidential information without the express written consent of the other. No obligation of confidentiality shall apply to the disclosed information which the recipient (i) already possessed without obligation of confidentiality; or (ii) develops independently; or (iii) rightfully receives without obligation of confidentiality from a third party.

17. LICENCE

No license, express or implied, is granted by GLOBALCOM SATELLITE pursuant to this Agreement.

18. PARTNERSHIP

Nothing in this Agreement and no action taken by the parties pursuant to this Agreement shall constitute or be deemed to constitute between the parties a partnership, association, joint venture, or other co-operative entity.

19. FORCE MAJEURE

- 19.1 Neither party shall be liable for any delay, failure or omission in performance of any part of this Agreement, other than for any delay, failure or omission to pay sums due hereunder, to the extent that such delay, failure or omission arises from any course reasonably beyond the control of that party, including (without limitation) by reason of fire, flood, explosion, accident, war, strike, industrial dispute, embargo, lightning, inclement weather atmospheric disturbances, or other event caused by a third party facilities operator, governmental requirement, civil or military authority, Act of God, civil unrest, inability to secure materials or labor.
- 19.2 The party affected by the Force Majeure shall immediately notify the other party and shall take reasonable steps to limit the effect and duration of the Force Majeure.
- 19.3 Any such delay or failure shall suspend this Agreement until the Force Majeure ceases and the Service term shall be extended by the length of the suspension.
- 19.4 If the Force Majeure continues for longer than 30 Working Days, then either party may terminate this Agreement without liability and without prejudice to the accrued rights and obligations of either party, on written notice to the other.

20. ASSIGNMENT

Neither party hereto shall transfer or assign its rights or obligations under this Agreement without the prior written consent of the other party *PROVIDED* however that either party may assign its rights and obligations under this agreement to its subsidiaries or to its parent company or to subsidiaries of the parent company with prior notification to the other party. No such assignment shall relieve the assigning party of its obligations hereunder.

21. SEVERABILITY

If any provision of this Agreement is held by a court or any governmental agency or authority to be invalid, void, or unenforceable, the remainder of this Agreement shall nevertheless remain legal, valid and enforceable providing always that if such a provision is of a fundamental nature to this Agreement either party may terminate this Agreement forthwith.

22. NO WAIVER

Failure by either party 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 of it or any other right on a later occasion.

23. VARIATION

- 23.1 The Customer acknowledges and agrees that the modifications identified in Clause 23.1.1, 23.1.2 and 23.1.3 below can be made by GLOBALCOM SATELLITE, without agreement by the Customer:
- 23.1.1 Any modification as a result of changes in the terms and conditions of the satellite operator or its agent, including price review, operational change or reallocation of satellite capacity.
- 23.1.2 Any modification as a result of local regulatory or access requirements to the satellite.

23.1.3 Any modification whose purpose is to rectify a legal defect or factual error in any provision of these terms but which does not alter the manifest intention of that provision.

23.2 Except for circumstances defined in Clause 23.1, this Agreement may not be modified except by written agreement, in English, signed by a duly authorized representative of each Party.

24. ENTIRE AGREEMENT

This Agreement expresses the entire understanding of the Parties to it, contains all the agreed terms and conditions and replaces any and all former agreements, understandings, solicitations, offers and representations with the exception of any Confidentiality or Non-Disclosure Agreement entered into between the Parties, which remains of full force and effect.

25. GOVERNING LAW

25.1 This Agreement shall be governed by and construed in accordance with the laws of the United Kingdom, and the Parties irrevocably agree to the jurisdiction of the courts of the United Kingdom.

25.2 If this Agreement is concluded in any language other than English, this English version shall take precedence over any other version and over any other language and all versions shall be by the laws of the United Kingdom.

26. DISPUTE RESOLUTION

26.1 Should any dispute arise between the parties either with respect to any provision of this Agreement, representatives of each party will use reasonable endeavors to settle the matter within 10 Working Days. Any dispute which has not been settled by the parties within that period of time shall be escalated to the first level of representation. If after a period of 10 Working Days, the dispute is not unresolved, it shall be escalated to the second level of representation, and either party may after a further period of 10 Working Days, pursue any remedy it may have at law subject to the exclusions and limitations under this Agreement.

26.2 The levels of escalation are to the following representatives:

First level: Manager
Second level: Director

26.3 If emergency proceedings are necessary to prevent irreparable damage, the procedure in sub conditions 26.1 and 26.2 shall either not be used or where the parties agree that circumstances permit, shall be used but in an accelerated form. Except when clearly prevented by the nature of the dispute, both parties agree to continue to perform their respective obligations under this Agreement during the period that the dispute is being resolved unless and until such obligations are terminated or expire in accordance with the provisions of this Agreement.

