

**GENERAL TERMS AND CONDITIONS
FOR GLOBAL ZONE SERVICES**

1. DEFINITIONS AND INTERPRETATION

1.1. **Definitions.** In this Agreement the following words and phrases shall have the following meanings:

Accompanying Person means each person (other than an employee of Batelco) accompanied by an Authorized Person while at Global Zone;

A-End means either the (i) Bahrain National Broadband Network (“**BNet**”); or (ii) cables landing or interconnecting with Batelco;

Agreement means the contract between Bahrain Telecommunications Company B.S.C. (herein referred to as “**Batelco**”) addressed at building 1095, road 1425, Al-Hamala 1014, P.O. Box 14, the Kingdom of Bahrain, and the signatory to this Agreement (hereinafter referred to as “**Customer**”) for the provision of the Services, and the Agreement shall comprise of the following documents:

- a) any relevant Order Form duly executed and signed between the Parties;
- b) these General Terms and Conditions for the provision of the Global Zone Services;
- c) the Service Level Agreement; and
- d) the applicable Service Schedule(s).

Allocated Space means the physical space which shall include the Equipment within the Global Zone facility allocated to the Customer by Batelco;

Associated Entity means (i) each individual, company, partnership or other entity of any type which employs, contracts with, or is otherwise associated or affiliated with Customer, Authorized Persons or Accompanying Persons, (ii) any of Customer’s end users and (iii) Sublicensees.

Authorized Person means each person included on the most recent list of Authorized Persons given to Batelco by Customer in accordance with the Policies.

B-End means Batelco’s demarcation patch panel within the Customer’s Allocated Space in the Global Zone;

Charges means the Rental Charges and Non-recurring Charges payable to Batelco by the Customer under this Agreement, which shall be set out in the relevant Order Form in accordance with the Service Schedule(s);

Customer Equipment means all hardware and software not supplied by Batelco and owned by the

Customer or licensed or leased to the Customer by a third party which is used (directly or indirectly) in relation to the Service;

Equipment means any apparatus, equipment, hardware material, the Software and other items (including parts and components) placed on the Allocated Space by Batelco for the provision of the Service or otherwise pursuant to this Agreement and including, but not limited to, the equipment specified in the Order Form;

Fault means a failure or malfunction in the Service(s);

Force Majeure Event means any cause or circumstance whatsoever beyond Batelco’s reasonable control, including (but not limited to) any act of God, fire, extreme weather conditions, industrial action, default or failure of a third party, war, act or omission of government or authority, compliance with any law or governmental or regulatory authority requirement which comes into force after the date of this Agreement, terrorist acts, civil commotion or disturbance, riot, insurrection or embargo, power failure, breakdown of plant machinery or vehicles, theft, sabotage and malicious damage;

Global Zone is a designated area within Batelco’s Data Center facilities in Bahrain that allows parties to interconnect and exchange data with each other to (i) transit via Bahrain to international destinations or (ii) terminate in Bahrain via a Bahrain-licensed service operator;

Intellectual Property Rights means copyrights (including rights in computer software), patents, trade and service marks, trade and business names (including internet domain names), design rights, database rights, semi-conductor topography rights, rights in undisclosed or confidential information (such as know-how, trade secrets and inventions (whether patentable or not)) and all other intellectual property or similar proprietary rights of whatever nature (whether registered or not and including applications to register or rights to apply for registration) which may now or in the future subsist anywhere in the universe;

Network means any network, system, cable or transmission facility owned, leased operated or managed by, or on behalf of, Batelco;

Non-recurring Charges means the once-off charges payable by the Customer in connection with the Services, including but not limited to the

installation of the Equipment at the Allocated Space, as specified in the Service Order Form;

Order Form means a completed order form requesting the Service(s) issued or signed by the Customer, a copy of which is annexed hereto;

Party or Parties means Batelco or the Customer individually or collectively;

Payment Due Date means thirty (30) Calendar Days from the invoice issuance date to the Customer by Batelco;

Planned Outage means any routine maintenance or upgrade work to be performed by Batelco which may affect the availability of a Service;

Rental Charges means the recurring charges payable by the Customer to Batelco for the use of the Services, as specified in the Order Form;

Service means the relevant Global Zone service(s) as set out in each Service Schedule, including but not limited to the following services: GZ-Colo, GZ-Access, and GZ-XC, which shall be specified by the Customer in the Order Form that it provides to Batelco in accordance with this Agreement;

Service Commencement Date means the date when the Service is handed over to the Customer by Batelco in accordance with clause 3.4;

Service Level Agreement means the service level agreement set forth in the applicable Service Schedule for a particular Service provided by Batelco to the Customer;

Service Schedule(s) means each schedule appended to these General Terms and Conditions and relating to the Service(s) being provided by Batelco to the Customer;

Service Term includes a service period of at least twelve (12) calendar months, or any such other period greater than twelve (12) calendar months, as specified in the Order Form, starting from the Service Commencement Date, for which Customer agrees to acquire the Service(s) specified on the Order Form;

Termination Charge refers to a charge payable in relation to cancellation of a Service during the Service Term, as set out in clause 14.3;

VAT means any value added tax chargeable under the applicable law for the time being and any similar additional tax;

Working Day(s) means any day (other than a Friday, Saturday or public holiday in the Kingdom of Bahrain); and

Working Hour(s) means the time between 07:00 and 15:00 during Working Days.

1.2. **Precedence.** In the event (and to the extent only) of any conflicts or inconsistencies between these Terms and Conditions and any of the constituent parts of this Agreement, then the following order of priority shall apply:

- a) these Terms and Conditions;
- b) the Order Form;
- c) the Service Level Agreement;
- d) and the relevant Service Schedule applicable to the Service ordered

2. COMMENCEMENT AND DURATION OF AGREEMENT

- 2.1. This Agreement commences on the last date that it is signed by duly authorised representatives of Batelco and the Customer (the “**Effective Date**”)
- 2.2. This Agreement shall remain valid until the valid termination by either Party in accordance with the terms of this Agreement; or
- 2.3. Upon expiry of the Service Term, this Agreement shall be automatically renewed for further periods of three (3) calendar months, unless terminated by either Party under the terms of this Agreement.

3. SERVICE ORDER(S) AND DELIVERY

- 3.1. **Ordering Service(s)** To order a Service, the Customer shall fill out and complete an Order Form and submit it to Batelco For the avoidance of doubt, the Order Form may be in electronic or paper form.
- 3.2. The Customer warrants the accuracy of the Customer provided details in the Order Form.
- 3.3. **Service Provision** Batelco reserves the right to reject any submitted Order Form for any reason, whether previously accepted by Batelco or not, including but not limited to (a) inability or impracticality of providing the Service(s); or (b) the Service(s) no longer being commercially offered by Batelco.
- 3.4. The Service Commencement Date shall be upon the handover of the Service by Batelco to the Customer unless the Customer informs Batelco within three (3) Working Days from the date of handover by Batelco that the Service does not

comply with the Agreement and is not ready for use.

- 3.5. Batelco can arrange for the installation of the Service(s) outside of the Working Hours on a time and materials basis.
- 3.6. **Concurrent Service Orders.** Each accepted Order Form constitutes an independent contract for the provision of Service(s), in accordance with, and subject to, the terms and conditions of the Agreement. The terms of multiple Service(s) may run concurrently, but shall not be o-terminus absent express provisions in a written amendment to this Agreement.
- 3.7. **Service Acceptance** Except as otherwise expressly stated in clause 3.4, the Customer is deemed to have accepted a Service upon the Service Commencement Date.

any interest in such Equipment and shall not delete, modify or tamper in any way with Batelco's ownership markings affixed on the Equipment. Any reverse engineering of the Equipment is also forbidden;

- b) be used by the Customer in accordance with any applicable instructions, safety and security procedures issued by Batelco, and the Customer will not add to, modify or in any way interfere with it nor allow any other persons to do so;
- c) be the sole responsibility of the Customer, any and all risks related to the Equipment shall pass to the Customer for the duration of the Service Term. It is understood however, that if Batelco sells the Equipment to the Customer, then title to the Equipment shall pass to the Customer upon the price for the Equipment is paid by the Customer in full; and
- d) stored and maintained by the Customer in a safe and secure place at the Allocated Space (as applicable), property protected against theft, damage, and loss and with adequate security safeguards with security measures and degree of care no less than the degree as the Customer would apply to the Customer Equipment.

4. SERVICE LEVEL AGREEMENT

Service Level Agreement. Batelco shall provide the Service to the Customer in accordance with the respective Service Level Agreement in the relevant Service Schedule(s), subject to the exclusions set out therein. Notwithstanding the foregoing, Batelco reserves the right to amend the SLAs from time to time effective upon posting of the revised SLA to the Global Zone website www.globalzone.bh or otherwise via written notice to the Customer, provided that in the event of any amendment resulting in a material reduction of the SLA's service levels or credits, Customer may terminate the Service without early termination liability (except for payment of all Charges up to the effective date of such Service discontinuance) by providing Batelco at least 30 days' notice of termination during the 10 Working Days following notice of such amendment. The SLA sets forth Customer's sole remedies for any claim relating to the Service or the Network, including any failure to meet any guarantee set forth in the SLA. Batelco's records and data shall be the basis for all SLA calculations and determinations. Notwithstanding anything to the contrary, the maximum amount of credit in any calendar month under the SLA shall be documented in the relevant Service Schedule.

5.2. The Customer shall be fully liable for any damages (fair and reasonable wear and tear excluded) to the Equipment supplied for the use of the Services, except if the Customer purchases the Equipment from Batelco. The Customer shall indemnify and hold harmless Batelco against any and all losses, damages, liabilities, claims and reasonable costs incurred by or brought against Batelco as a result of any breach or alleged breach by the Customer of its obligations under this clause 5.

5.3. It shall be the Customer's responsibility to ensure that any Customer Equipment is technically compatible with the Service and/or the Equipment and approved for those purposes under any relevant legislation or industry standards. The Customer shall not connect any Customer Equipment which has not been supplied or approved by Batelco to the Services.

5.4. Upon the expiry of the Service Term or termination of this Agreement for any reason, the Customer shall either:

5. EQUIPMENT

- 5.1. The Customer agrees that any Equipment supplied to the Customer by Batelco (if any) will:
- a) remain the property of Batelco (unless otherwise notified by Batelco in writing), and the Customer shall not be entitled to deal with or dispose of,

- a) upon Batelco request, make all Equipment available to Batelco for removal the Equipment to Batelco in the same conditions as originally installed (except with reasonably fair wear and tear), except

in the event the Customer purchases such Equipment from Batelco. Costs and conditions of shipment of the Equipment shall be mutually agreed to between the Parties; or

b) purchase the Equipment from Batelco at a price mutually agreed to between the Parties.

5.5. Upon removal of the Equipment from the Allocated Space pursuant to clause 5.4 above, Batelco shall not be obligated to restore the Site to its original conditions.

5.6. Upon expiration of the Service Term or termination this Agreement for any reason, if the Customer does not make all Equipment available for removal as per clause 5.4 above, the Customer shall be liable to pay Batelco the value of the Equipment, without prejudice to any other remedy available to Batelco under applicable laws.

5.7. Except for warranties which may not be excluded under applicable law, Batelco gives no specific or general warranty, whether express or implied, with respect to the Equipment supplied hereunder to the Customer.

6. USE OF THE SERVICE

6.1. The Customer will not use the Service:

a) in a way which does not comply with the terms of any legislation 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 which infringes or may potentially infringe the rights of any third party;

b) in connection with (without prejudice to the generality of clause a)) above) the carrying out of a fraud or criminal offence against Batelco or any other party; or

c) for the storage, to send, knowingly receive, upload, download, use or re-use material which is abusive, indecent, defamatory, obscene or menacing, or in breach of copyright, confidence, privacy or any other rights or which is liable to incite racial disharmony or hatred, or which comprises virus or other code liable to cause loss or damage; or

d) to send or procure the sending of any unsolicited advertising or promotional material; or

6.2. The Customer shall indemnify Batelco against any losses, damages, liabilities, costs, charges or expenses which Batelco may incur as a result of any breach or alleged breach by the Customer of its obligations under this clause 6.

6.3. Without prejudice to the foregoing, if Batelco discovers or is notified by the Customer or any other person of the transmission of data or voice or other matter relating to data or voice or use of the Service by the Customer or its customers that is in violation of any law, regulation, order or other similar rule of any competent authority or use policy, Batelco may (without any liability or penalty whatsoever) take all action required to ensure compliance with, or to prevent any breach of such laws, regulations, orders, rules or such use policies (including but not limited to suspension of the Service pursuant to clause 13.6). Batelco shall use reasonable endeavours to provide the Customer with prior written notice of such action, as soon as is reasonably practicable, unless prevented from doing so by any law, regulation, order or similar rule, or Force Majeure Event.

7. MAINTENANCE OF SERVICE

7.1. The maintenance of the Services shall be performed by Batelco, either directly or through third parties selected by Batelco.

7.2. **Planned Outage.** Batelco shall be entitled, by giving at least ten (10) Working Days advance written notice to the Customer, to temporarily suspend the Services, in whole or in part, if necessary to maintain the proper functioning of the Services, and shall use all reasonable endeavours to ensure the duration of the suspension is kept to a minimum. Batelco shall not, for any reason, be responsible towards the Customer for any damages, losses or other charges incurred from the suspension of the Services for maintenance purposes.

7.3. **Emergency Outage.** Refers to works undertaken by Batelco to carry out a change in its Network, equipment or facilities to prevent a potential Network or customer outage, or to repair a chronic customer impacting problem that would result in unavailability of the Service if the works are not undertaken or for any other reason beyond Batelco's reasonable control. If Batelco suspends the Service for urgent maintenance, Batelco shall give the Customer as much advance notice as is reasonably practicable.

7.4. If the Service develops a Fault or defect which, is due to an act of default of the Customer, the Customer shall use its reasonable endeavours to

investigate and rectify the Fault or defect and/or indemnify Batelco for all reasonable costs and expenses incurred in relation to the investigation and remedy of such fault or defect. The Customer agrees to promptly pay any such charges on receipt of an invoice from Batelco. Any breach by the Customer of this clause constitutes a material breach of this Agreement.

8. CHARGES AND PAYMENT

8.1. The Customer agrees to pay the Charges to Batelco for the Services as specified in the Order Form.

8.2. **Variation of Charges.** Batelco may vary its Charges at any time during the Service Term upon thirty (30) calendar days' prior written notice to the Customer. Without prejudice to Batelco's rights under this clause, the Customer may dispute the change in Charges following the process outlined in clause 15.2 to 15.5 (inclusive).

8.3. **Rental Charges** shall be invoiced monthly in advance, Rental Charges for Services provided for part of a month shall be charged on a pro-rata basis.

8.4. **Non-Recurring Charges** related to the Services shall be invoiced in arrears.

8.5. **Currency Conversion.** If a conversion of currency is necessary the conversion rate shall be as notified by Batelco to the Customer.

8.6. **Invoices.** Batelco shall send the relevant electronic invoices on a monthly basis to the Customer to the Customer's notice address set out in clause 18.2 of this Agreement.

8.7. The Customer shall pay the undisputed Charges due in full on or by the Payment Due Date.

8.8. Billing Disputes

8.8.1. Subject to this clause 9, if the Customer, in good faith, disputes the amount in an invoice solely relating to statement errors ("**Billing Dispute**") by notifying Batelco in writing, the Customer shall:

- a) continue to pay any undisputed amounts to Batelco on or by the Payment Due Date;
- b) cooperate with Batelco to promptly resolve the Billing Dispute; and
- c) where applicable, pay the amount agreed upon mutually between the Parties within ten

(10) Working Days from the resolution of the Billing Dispute.

8.8.2. If the Customer does not notify Batelco of a Billing Dispute within fourteen (14) Working Days from Payment Due Date, the invoice shall be deemed undisputed for the purposes of clause 8, and the Customer irrevocably waives the right to dispute the respective invoice as a Billing Dispute in the future.

8.9. All debts and obligations of the Customer towards Batelco shall become immediately due and payable if:

- a) any form of attachment or seizure is made on any of the Customer's assets;
- b) any order or application is made or any effective resolution is passed with a view to the bankruptcy or moratorium, dissolution or winding up of the Customer;
- c) the Customer becomes solvent or otherwise ceases or threatens to cease to pay its debts; or
- d) the Customer, without the prior written consent of Batelco, converts its corporate form into another legal entity, transfers its undertaking or a substantial part thereof, to a third party, or moves its corporate seat to another country's jurisdiction.

8.10. If the Customer does not pay an invoice by the Payment Due Date, Batelco shall have the right at its discretion and without notice to the Customer to set-off that amount against any amounts Batelco owes to the Customer under any valid invoice issued under this Agreement or otherwise; or

8.11. **Interest.** If the Customer does not make payment on or before the Payment Due Date, which shall constitute a default for all purposes, Batelco reserves the right to charge monthly interest on all defaulted amounts at the flat rate equal to one and a half percent (1.5%) above the London Inter-bank Offered Rate (LIBOR), beginning from the default date until actual payment of the outstanding amount. Interest shall continue to accrue notwithstanding termination of the Service for any reason, until the outstanding amount is paid. Any reasonable incidental charges reasonably incurred by Batelco in relation to recovery of its dues under this Agreement, will be billed separately to the Customer.

8.12. **VAT.** All Charges mentioned in this Agreement are exclusive of any applicable taxes, including but not

limited to VAT, corporate income tax and other taxes that may be imposed by any public or governmental authority in respect of this Agreement.

- 8.13. Either Party will bear their respective taxes liability, if any, applicable in their country.
- 8.14. In the event that a tax treaty applies between the countries of both Parties and it provides for tax to be withheld in Batelco's country (Kingdom of Bahrain) on the payment due to the Supplier in respect of this Agreement, Batelco shall withhold or deduct such tax from the payments due to the Supplier provided such tax to be actually paid by Batelco to the appropriate authorities in Bahrain. In such a case, Batelco will provide the Supplier with the official receipt, tax certificate and/or the valid proof of payment as per the respective local laws.

9. INTELLECTUAL PROPERTY RIGHTS

- 9.1. Customer acknowledges that any and all patents, registered and unregistered designs, copyrights, trademarks and all other Intellectual Property rights whatsoever and wheresoever enforceable, which are used in connection with the Service and/or Service Equipment, shall remain the sole property of Batelco or third party owners, as applicable.
- 9.2. The Customer acknowledges and agrees that all Intellectual Property Rights in the Service, the Software and the Equipment are, and shall remain at all times, the property of Batelco or its licensors. The Customer shall execute all such documents and render all such assistance as Batelco may from time to time require to perfect and enforce Batelco's title to the Intellectual Property Rights.
- 9.3. Batelco grants the Customer, for the duration of this Agreement, a non-exclusive, non-transferrable licence to use the Intellectual Property Rights in the Equipment and the Software solely for the purposes of using the Service in accordance with this Agreement.
- 9.4. The Customer will not copy, de-compile or modify the Equipment and/or the Software, provided to the Customer in connection with the Service.
- 9.5. The Customer may copy any manuals or documentation provided by Batelco in connection with the Service for its internal business use only. Such copies shall be destroyed immediately upon the expiry or termination of this Agreement for any reason.

9.6. The Customer shall indemnify Batelco against any action at law based on the allegation that the use of the Software, Equipment and/or Service infringes any third party intellectual property rights.

9.7. Except as provided in this clause 9, nothing in this Agreement entitles the Customer to use any Batelco and/or Global Zone name, logo, or trade mark or any Batelco intellectual property in connection with the Service without the prior written consent of Batelco. Any breach of this clause constitutes a material breach of this Agreement.

10. CONFIDENTIALITY

10.1. Each party hereby mutually undertakes to:

- a) keep confidential all information (whether written or oral) concerning the business, trade secrets, customers, suppliers and affairs of the other parties that it shall obtain or receive as a result of the discussions leading up to or the entering into or performance of this Agreement (the "**Confidential Information**");
- b) not without the other party's written consent disclose the Confidential Information in whole or in part to any other person save those of its employees, agents, advisers and sub-contractors involved in its performance of this Agreement and who have a need to know the same; and
- c) use the Confidential Information solely in connection with the performance of their respective obligations under this Agreement.

10.2. The provisions of clause 10.1 above shall not apply to any Confidential Information to the extent that such information is already in the other party's possession on the date of its disclosure, or in the public domain other than as a result of a breach of this clause or is required to be disclosed by an order of a competent court or regulatory authority.

10.3. Each Party hereby undertakes to the other to make all relevant employees, agents, advisers and sub-contractors aware of the confidentiality of the Confidential Information under the provisions of this clause and without limitation of the foregoing to take all such steps as shall from time to time be necessary to ensure compliance by its employees, agents, advisers and sub-contractors under the provisions of this clause.

11. LIABILITY AND INDEMNITY

11.1. Customer will be responsible and liable for all acts or omissions of Customer's Authorized Persons, Accompanying Persons, Associated Entities and for any equipment or services not provided by Batelco.

11.2. Subject to clause 11.4, neither Party to this Agreement shall have any liability to the other Party in respect of any loss or damage whatsoever and howsoever arising in connection with this Agreement, including, but not limited to, liability in contract (including under any indemnity or warranty), under any applicable legislation or otherwise for any: (a) loss of profit; (b) loss of revenue; (c) loss of anticipated savings; (d) loss or corruption of data; (e) loss of contract or opportunity; (f) loss of goodwill; or (g) indirect or consequential loss of whatever nature, including (without limitation) any loss of a type described in (a) to (f) above which could be regarded as indirect or consequential and whether or not reasonably foreseeable, reasonably contemplatable, or actually contemplated by the parties at the time of execution of this Agreement, to the extent permitted by law.

11.3. Both Parties' liability shall be limited to an amount equal to the Charges payable by the Customer for the Service for a twelve (12) month period within the Service Term of the year in which the cause of action giving rise to the liability arose.

11.4. Nothing in this Agreement shall exclude or limit the liability of either Party:

- a) for death or personal injury arising from the negligence or wrongful act of that party or its directors, officers, employees, contractors or agents;
- b) in respect of fraud or of any statements made fraudulently by that party or its directors, officers, employees, contractors or agents;
- c) any indemnities set out in clause 11; and/or
- d) any amounts due and payable to Batelco by the Customer under this Agreement.

12. FORCE MAJEURE

Neither Party shall be in breach of its obligations (excluding the Customer's payment obligations) under this Agreement if there is any total or partial failure of performance by it of its obligations resulting from a Force Majeure Event. If the Force Majeure Event continues for more than thirty (30) Working Days and substantially affects the abilities of the Parties to perform this Agreement, the non-defaulting party shall

have the right to terminate this Agreement forthwith upon giving written notice to the other Party. No Party shall have any liability to the other in respect of the termination of this Agreement as a result of a Force Majeure Event.

13. SERVICE SUSPENSION

13.1. Batelco reserves the right, at any time, to immediately suspend the provision of the Services and/or disconnect the Equipment, in whole or in part to the Customer if the Customer:

- a) damages the Services intentionally; or
- b) breaches clause 6 of this Agreement; or
- c) Customer or Customer's Equipment interferes with operation or maintenance of Global Zone or with one or more other customers' use thereof, and within a reasonable time, not to exceed one (1) hour after being notified by email or phone, Customer fails to (a) cease such interference; (b) provide a plan acceptable to Batelco to cease such interference; or (c) authorize Batelco to take action to cease such interference (billed at Hands & Eyes rates); or
- d) in Batelco's reasonable judgment Customer or Customer's Equipment has the potential to interfere with operation or maintenance of Batelco's data centre or with one or more of its other customers' use thereof, and within a reasonable time, not to exceed forty-eight (48) hours after being notified by e-mail or phone, Customer fails to
 - (1) resolve such potential interference;
 - (2) (provide a plan acceptable to to resolve such potential interference; or
 - (3) authorize Batelco to take action to resolve such potential interference (billed at Hands & Eyes rates, as further defined in the relevant Service Schedule(s)). If Batelco suspends a Service pursuant to this clause, unless Batelco has subsequently terminated the Agreement as permitted under the Agreement, Batelco will resume the discontinued Service as soon as reasonably practical after it is reasonably satisfied that Customer has cured the breach(es) which gave rise to the suspension; and Batelco may charge a reinstatement fee. Further, Batelco may terminate the Agreement if Customer's breach referred

to in this clause 13, continues for at least five (5) days or occurs more than three (3) times in any twelve (12) month period.

13.2. Unless Batelco has subsequently terminated the Agreement as permitted under the Agreement, the Services shall remain suspended or disconnected pursuant to clause 13.1 for the time that Batelco shall deem appropriate in order to avoid any further damage to the Services, or when it is reasonably satisfied that the Customer has cured the breach(es) which gave rise to the suspension; and Batelco may charge a reinstatement fee. In such a case, the Customer shall not be entitled to claim any compensation for damages, losses or other charges deriving from the suspension or disconnection of the Services. Further, Batelco may terminate the Agreement if Customer's breach referred to in this clause 13, continues for at least five (5) days or occurs more than three (3) times in any twelve (12) month period.

13.3. Batelco reserves the right to suspend the Service if the Customer does not pay any Charges, by giving ten (10) Working Days prior written notice (the "**Suspension Notice**") to the Customer. If the Customer does not make payment of any outstanding Charges due on or by the expiry of the Suspension Notice, Batelco, shall be entitled to immediately terminate the Service.

13.4. Without prejudice to this clause, Batelco may suspend the Service in accordance with clauses 7.2 and 14.4.2 under this Agreement. Batelco also reserves the right, at any time, to suspend the service immediately and without notice if in Batelco's reasonable judgment such suspension is necessary to mitigate immediate risks related to health, safety, or equipment damage (whether such equipment is owned by Customer, a 3rd party, or Batelco).

13.5. Where the Service or any part of it is suspended in accordance with clauses 13.1, 13.3, the Customer must pay to Batelco the Charges until this Agreement is terminated in accordance with the terms of this Agreement.

13.6. If the Service is suspended (but not if Batelco suspends part of the Service) for a continuous period of twenty (20) Working Days then the Customer may give notice to Batelco to terminate this Agreement, subject to paying any outstanding Charges in accordance with clause 14.4.

provision of the Service with a prior written notice of three (3) calendar months" notice to take effect on or at any time after the expiry of the Service Term.

14.2. **Early Termination of a Service by the Customer.** Subject to clause 14.3, Customer may, by written notice to Batelco, terminate a Service.

14.3. **Early Termination Charges.** If the Customer terminates a Service for any reason prior to the completion of the Service Term then the Customer must pay Batelco 100% of the Rental Charges for each cancelled Service for each month remaining in the Service Term, including a pro rata amount for each part month commencing from the effective date of termination.

14.4. Termination for Breach

14.4.1. Either Party may terminate this Agreement immediately on written notice, if the other Party (the "**Defaulting Party**"):

- a) commits a material breach of this Agreement, which is capable of remedy, and where the Defaulting Party fails to remedy such breach within ten (10) Working Days of receipt of a written notice from the other Party to do so; or
- b) commits a material breach of this Agreement which cannot be remedied; or
- c) is repeatedly in breach of this Agreement; or
- d) is the subject of a bankruptcy order, or becomes insolvent, or makes any arrangement or composition with or assignment for the benefit of its creditors, or goes into voluntary (otherwise than for reconstruction or amalgamation) or compulsory liquidation or a receiver or administrator is appointed over its assets

14.4.2. If any of the events detailed in clause 14.4.1 above occur as a result of the Customer's default, Batelco may by notice to the Customer (setting out the reasons) suspend the Service or any part of it without prejudice to its right to terminate this Agreement.

14.4.3. If Batelco terminates this Agreement pursuant to this clause 14.4 due to the Customer's breach, the Customer shall pay Batelco 100% of all outstanding amounts up to and until the end of the Service Term.

14.4.4. If the Customer terminates this Agreement pursuant to this clause 14.4 due to Batelco's

14. TERMINATION

14.1. **Termination for Convenience** Either Party may, for any reason, terminate this Agreement and

breach, Batelco will refund any apportioned Charges paid in advance in respect of any period which ends after the date of withdrawal less any applicable deductions.

Agreement without the prior written consent of Batelco, which consent shall not be unreasonably withheld.

15. CHANGES

15.1. Upon providing the Customer with at least thirty (30) Calendar Days prior written notice (the “**Notice of Change Period**”), where reasonably practicable to do so, Batelco may, at any time during the Service Period:

- a) vary the Charges as a result of any future order or regulation issued by any governmental or regulatory body in the Kingdom of Bahrain including the Telecommunications Regulatory Authority;
- b) change the technical specification of the Service, provided that any changes do not materially affect the substance or the performance of the Services; and
- c) alter or amend the terms of this Agreement (including but not limited to a Service Level Agreement) at any time.

15.2. Pursuant to clause 15.1, the Customer may terminate a Service by providing Batelco with ten (10) Working Days prior written notice if Batelco changes any of the Charges pursuant to Clause a);

15.3. The Customer may accept or reject such changes referred to in clause 15.1 and notify Batelco of its decision in writing within the Notice of Change Period defined above.

15.4. Batelco may terminate a Service or this Agreement if the Customer does not accept any change pursuant to clause 15, by providing ten (10) Working Days prior written notice to the Customer.

15.5. If the Customer accepts the proposed changes as per clause 15.1, then the amended terms shall come into effect beginning from the expiry of the 10th Working Day of the Notice of Change Period and shall be valid for the remainder of the Service Term.

16. ASSIGNMENT AND SUB-CONTRACTING

Batelco may assign novate or sub-contract any of its rights or obligations under this Agreement. The Customer shall not be entitled to assign, novate, sub-contract or otherwise dispose of any of its rights or obligations under this

17. ENTIRE AGREEMENT AND EXCLUSION OF WARRANTIES

17.1. Save as expressly provided under this Agreement all other warranties whether express or implied are hereby excluded to the fullest extent permissible by law and this Agreement constitutes the entire understanding between the parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements.

17.2. For the purposes of this clause a “**Pre-Contractual Statement**” means a draft agreement, undertaking, representation, warranty, promise, assurance or arrangement of any nature whatsoever whether or not in writing and whether implied or otherwise relating to this Agreement made or given by any party or any other person at any time prior to the execution of this Agreement.

17.3. The Customer hereby acknowledges that it has not entered into this Agreement in reliance upon any Pre-Contractual Statement which is not expressly set out herein and that the Agreement supersedes and extinguishes any prior Pre-Contractual Statements relating thereto.

17.4. The Customer shall not have any right of action against Batelco arising out of or in connection with any Pre-Contractual Statement except in the case of fraud or dishonesty or wilful concealment.

18. NOTICES

18.1. Any notice to be given by the Customer to Batelco shall only be effective if in writing and delivered to:
Legal Notices
Head of Legal and Regulatory Affairs
Batelco
Al Hamala Headquarters, Building 1095, Road
1425 Al-Hamala 1014, Bahrain; or

18.2. Any notice to be given by Batelco to the Customer shall be effective if in writing and delivered to the address or sent to any relevant contact for that party set out in the Order Form.

18.3. Any such notice shall be considered to have been received by the addressee two (2) Working Days following the date of despatch if by registered post or air mail or simultaneously if by facsimile.

19. MISCELLANEOUS

- 19.1. The Customer hereby represents and warrants to Batelco that it has the full power to enter into this Agreement and that all information supplied by the Customer to Batelco and/or entered onto the Order Form is true, accurate and complete in all respects. Batelco shall not be liable for any losses or damages suffered by the Customer in relation to any Service provided due to incorrect or inaccurate information provided in the Order Form.
- 19.2. The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by law does not constitute a waiver of the right or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Agreement or by law prevents further exercise of the right or remedy or the exercise of another right or remedy. If either party elects to waive a breach of this Agreement that waiver is limited to that particular breach.
- 19.3. If a provision of this Agreement is, or becomes, to any extent illegal, invalid or unenforceable, then it is the intention of the parties that it shall to that extent be deemed not to form part of this Agreement and will not affect the legality, validity or enforceability of any other provision of this Agreement, which shall continue in force and effect.
- 19.4. Customer warrants to Batelco that, at any time during the term of the Agreement, it has in place a valid and sufficient liability insurance covering damage, in accordance with and appropriate to the nature and extent of its business activities, and should in any case cover damage to the Allocated Space, the Equipment, and any other ancillary goods and/or facility of Batelco or of its customers or other third parties. Additionally, the Customer, at any time during the term of the Agreement, will have the Customer Equipment sufficiently insured against, inter alia, physical damage and theft by way of a property damage insurance. In the event of damage to the Customer Equipment, the Customer shall in the first instance claim the damages under its own insurance.
- b) in the event that the dispute or claim has not been resolved within ten (10) Working Days of a referral pursuant to 20.1.1 (a) above, that it shall be referred to the respective chairmen of the Parties, who shall negotiate with each other in good faith to attempt to resolve such dispute or claim on a mutually acceptable basis.
- 20.2. In the event that the dispute or claim has not been resolved within ten (10) Working Days of a referral pursuant to clause 20.1.1 (b) then the provisions of clause 20.1.3 and 20.1.4 shall apply.
- 20.3. Any dispute, controversy or claim arising out of or relating to this contract in any way whatsoever, or the breach, avoidance, termination or invalidation with respect to any matter arising out of or relating to this Agreement shall be finally determined by arbitration administered by the Bahrain Chamber for Dispute Resolution in accordance with its Arbitration Rules. The place of arbitration shall be Manama, Bahrain, the language of the proceedings shall be English. The number of arbitrators shall be one. The arbitration award shall be final, conclusive and binding on the Parties and they each expressly waive their rights of appeal in respect of such arbitration award.
- 20.4. The Courts of England and Wales are to have exclusive jurisdiction to enforce any arbitration award or any terms of settlement arising out of or in connection with this Agreement and each Party irrevocably submits and agrees to submit to the jurisdiction of Bahrain Courts. Each Party waives (and agrees not to raise) any objection, on the ground of *forum non conveniens* or on any other ground, to the taking of proceedings in the Courts of England and Wales. Each Party also agrees that a judgment against it in proceedings brought in England and Wales shall be conclusive and binding upon it and may be enforced in any other jurisdiction.
- 20.5. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England and in relation to all disputes.

20. DISPUTE RESOLUTION AND GOVERNING LAW

- 20.1. The Parties agree that if any dispute or claim arises out of or in connection with this Agreement, including any issue relating to its formation, validity, effect or termination:
- a) that such dispute or claim shall first be referred to the respective chief executive officers of the Parties, who shall negotiate with each other in good faith to resolve the matter on a mutually acceptable basis; and