

Standard Terms for Rainbow Communications's Service

1. Definitions

1.1 The following words shall, unless the context requires otherwise, have the following meanings:

**"Agreement"** means the Conditions ("Conditions"), the Customer Application Form which shall form the entire Agreement between Rainbow and Customer;

**"Access Provider"** means the telecommunications network operator enabling connection to the Services;

**"Act"** means any relevant legislation as modified from time to time;

**"BT"** means British Telecom;

**"Business Day"** means every day excluding Saturdays, Sundays and Public and Bank Holidays in Northern Ireland;

**"Call Service"** means Rainbow's carrier pre-select and/or leased cost routing telecommunications service;

**"Call Charges"** means the charges payable by the Customer monthly in arrears for use of the Services logged by Rainbow and calculated in the Tariff Sheet with the relevant Tariff Sheet;

**"Charges"** means the Call Charges, the Fixed Charges, the Connection Charge and the Committed Spend and/or any other monies due and payable by the Customer to Rainbow Communications in respect of the Services;

**"Committed Spend"** means the amount of the Customer's estimated minimum spend in respect of call charges for each month of the Contract Term specified in Part 9 of the Customer Application Form;

**"Connection Charge"** means the charges set out in the Tariff Sheet and as identified as the Tariff Plan detailed in section 6 of the Customer Application Form, for the connection of each piece of equipment and/or Exchange Line to a network;

**"Contract Term"** means the period of time set out in section 9 of the Customer Application Form, calculated as commencing on the Operative Service Date. If no period of time is set out in section 9 of the Customer Application Form, the Contract Term begins on the Operative Service Date and expires on the first anniversary of that date;

**"Customer"** means the company, organisation or individual named as the Customer in section 1 of the Customer Application Form;

**"Customer Application Form"** means Rainbow's official statement signed by an authorised signatory of both parties and setting out in writing the Customer's requirements for and specific details relating to the Services;

**"Customer's Equipment"** means any equipment owned and maintained by the Customer and used in connection with the Services;

**"Equipment"** means any apparatus or equipment owned by Rainbow and supplied to the Customer to facilitate the provision of the Services;

**"Fixed Charges"** means a fixed charge levied as a regular subscription fee payable by the Customer to Rainbow monthly;

**"Force Majeure"** means any circumstances beyond a party's reasonable control affecting the performance of their obligations under this Agreement, including but not limited to acts of God, fire, flood, explosion, accidents, war, acts of terrorism, labour disputes, strikes, lock outs, embargo, subcontractor delays, acts of government, state of emergency, riots, civil commotion, malicious damage, government actions and any other similar events;

**"Further Contract Term"** means the period (s) following the Contract Term, as further described in clause 7.1 of these Conditions;

**"Group"** means, in relation to any company, that company and any other company which, at the relevant time, is a party to an undertaking and/or subsidiary undertaking of that company as defined by section 1162 of the Companies Act 2006 and a "member" of a group has the corresponding meaning;

**"Network"** means any telecommunications network that Rainbow may use in order to provide the Customer with the Services;

**"Non-Geographic Number"** means any telephone number used by Rainbow to deliver calls to the Customer allowing a revenue share to be generated for the Customer by some or all of the calls;

**"Offending Material"** means any material, data, images or information that is: (i) in breach of any law, regulation, code of practice or the Use Policy; and/or (ii) abusive, indecent, defamatory, unlawful, offensive, obscene or menacing or otherwise offensive; and/or (iii) fraudulent or which has any illegal or unlawful purpose;

**"Premises"** means the building at which the Customer conducts its business and to which the Services are connected and this definition shall include any building to which the Customer relocates and at which it takes the Services;

**"Privacy Policy"** means Rainbow's policy of information and data protection policy governing Rainbow's use of the personal information that Rainbow collects relating to the Services as may be amended from time to time and which is detailed in Rainbow's Code of Practice on Rainbow's website www.rainbowcomms.com

**"Rainbow"** means TSI (Ireland) Limited trading as Rainbow Communications, 286 Ballygowan Road Belfast Northern Ireland BT2 6BL;

**"Services"** means the Call Service and/or WLR telecommunications services provided to the Customer by Rainbow in accordance with this Agreement and/or any other products and/or Services provided by Rainbow to the Customer from time to time;

**"Tariff Sheet"** means the list of fixed charges, call charges and other applicable charges (available on request);

**"Use Policy"** means Rainbow's terms and conditions of use of the Services as issued by Rainbow and published on the Rainbow website from time to time;

**"WLR"** (Wholesale Line Rental) means the telecommunications service where Rainbow provides access to the network directly rather than through an Access Provider and leases to the Customer the telephone lines within the network across which the Customer's voice telephone calls are routed in addition to routing those voice telephone calls across those lines;

**"Operative Service Date"** means the date when WLR and/or Call Service transfers to Rainbow Communications.

2. BASIS OF CONTRACT

2.1 These Conditions shall govern the Agreement between Rainbow and the Customer to the exclusion of any other terms and conditions and will supersede all previous conditions notified to the Customer.

2.2 Customer Application Forms executed by the Customer leading to an Agreement which is not expressed to be subject to these Conditions shall still be subject to them.

2.3 No verbal warranties or representations shall bind Rainbow. The Customer acknowledges that it does not rely on any representation and/or warranty not contained in these Conditions.

2.4 Details in specifications, brochures and the tariff sheet are intended as a guide only and only give a general approximation of the Services. The Customer confirms and agrees that it has read the details and information detailed on Rainbow's website www.rainbowcomms.com or contained in Rainbow's brochure or other sales literature unless it has sought and obtained written confirmation from Rainbow of its accuracy.

2.5 If there is any conflict between the terms of these Conditions and the terms of any Customer Application Form the terms of these Conditions will take precedence.

2.6 This Agreement will come into effect upon Rainbow's acceptance of the Customer's application for the Services (which acceptance shall occur upon the earlier of Rainbow's signature of this Agreement, or Rainbow's provision of the Services to the Customer) and will continue until terminated in accordance with clause 7 of these Conditions.

3. CONNECTION AND SUPPLY OF SERVICES

3.1 Where appropriate, Rainbow will make the arrangements to transfer the Customer to the Service. The Customer authorises Rainbow to arrange the termination of the Customer's existing telecommunications services provider and to obtain any information from the Customer's existing telecommunications services provider. For the avoidance of doubt, the Customer acknowledges that the transfer of the Customer to the Service will depend upon the co-operation of third parties (including the existing telecommunications services provider), and Rainbow shall have no liability for any non-transfer of the Customer to the Service, in whole or in part. Rainbow does not warrant that the Services will be ready by any particular date and shall not be liable for any failure to provide the Services by any estimated date.

3.2 Rainbow will provide the Services with all due care and skill in accordance with this Agreement.

3.3 The Customer accepts and acknowledges that the provision of the Services may be affected by things outside of Rainbow's control including without limitation faults in the Network. The Customer accepts and acknowledges as reasonable that Rainbow cannot guarantee that the Services will operate error or fault free all of the time.

3.4 The provision to the Customer of the Services is dependent upon the acquisition of any and all consents, approvals and authorities necessary from the Customer's existing telecommunications services provider and Rainbow will not be liable for any inability or delay in obtaining any such consents, approvals or authorities.

3.5 Rainbow, acting reasonably and without unreasonable delay, may refuse to connect the Customer to the Services if any of the information provided by the Customer is incomplete, incorrect or false and the Customer does not satisfy Rainbow's Customer criteria. Rainbow will notify the Customer as soon as reasonably possible after making any decision of such non-satisfaction. Rainbow reserves the right to perform a credit check with no prior given notice on any legal entity.

3.6 The Customer is responsible for providing Rainbow with all necessary information required by Rainbow to fulfil the obligations of this Agreement and for ensuring the accuracy of that information. The Customer must inform Rainbow immediately of any changes to the information provided to Rainbow including any change of address.

3.7 Rainbow may, at any time without notice, vary the Services as Rainbow deems appropriate provided that this does not adversely affect the functionality of any material way.

3.8 The Customer will, at Rainbow's request, arrange for the Customer's Equipment to be reprogrammed by Rainbow's designated maintainer. The Customer accepts as reasonable and acknowledges that Rainbow will have no liability to the Customer in respect of such reprogramming.

3.9 The Customer shall provide Rainbow (without charge) with all assistance and/or facilities that are required to enable Rainbow to supply the Services and fulfil its obligations under this Agreement.

3.10 Rainbow will provide fault-handling and resolution services, on condition that: 3.10.1 the Customer will contact Rainbow within 48 hours of discovery of a fault; 3.10.2 If Rainbow does not find any fault in the Services, or considers the fault to have been caused by the Customer, Rainbow may charge for any costs incurred in carrying out any maintenance or repair.

3.11 If it is necessary to carry out scheduled or unscheduled maintenance, or to suspend the Services temporarily, Rainbow will endeavour to provide reasonable notice to the Customer, wherever reasonably possible.

3.12 Rainbow cannot guarantee that the Access Provider will not charge the Customer for any calls, nor can Rainbow guarantee that the Access Provider will route any calls to the Network. The Customer remains liable to the Access Provider for charges levied against the Customer by the Access Provider.

3.13 Where the Customer requests WLR, Rainbow will, at the Customer's cost (as specified on the Tariff Sheet) and request, use all reasonable endeavours to arrange for a standard entry to be made into the appropriate BT telephone directories detailing the Customer's contact information.

3.14 Once the Customer has been connected to the Services, any telephone voice calls made by the Customer over a network owned and controlled by BT using any override code may be charged to the Customer by BT at BT's then current rates for such calls.

3.15 The Customer acknowledges that any call barring features requested in conjunction with the WLR part of the Services may take up to 15 Business Days from the date of the Customer Application Form to activate.

3.16 If the Customer intends to relocate its Premises the Customer must provide Rainbow with at least 30 days notice in writing prior to such relocation. Following such notice Rainbow will, at no extra charge to the Customer, use all reasonable endeavours to disconnect the Call Service from the Premises and re-connect the Call Service to the Customer's new Premises and this agreement will continue unaffected. Re-connection charges for the Services other than Call Service will apply as specified on the Tariff Sheet. Where the Customer's new Premises are in a location at which Rainbow is unable to provide the Services due to technical reasons Rainbow and/or the Customer may cancel without liability this Agreement. The Customer remains responsible for all charges up to the point that the Services are disconnected. Termination by the Customer in relation to Premises or otherwise, other than as expressly permitted by this clause, will be dealt with in accordance with clause 7.5 of these Conditions.

4. USE OF THE SERVICES

4.1 The Customer must not use the Services: 4.1.1 to send any message or communications which contain Offending Material; and/or 4.1.2 to intentionally harass, annoy, inconvenience or cause anxiety to any person.

4.2 The Customer will, during each month of the Contract Term, use and pay Rainbow for Services which are equal to or more than the Committed Spend.

4.3 The Customer's continued use of the Services is on condition that the Customer: 4.3.1 follows all reasonable instructions that Rainbow may provide for the provision and operation of Services from time to time; 4.3.2 complies with all relevant provisions of the Use Policy and any and all relevant law, code of practice, regulation, or any direction of the Office of Communications or other competent authority, and any licence which governs the running of the Customer's own telecommunications system; 4.3.3 shall ensure that the Customer's Equipment is in good working order, of correct specification and conforms to the relevant standard of any applicable regulatory body, and no Equipment is reserved, the Customer will allow Rainbow's designated maintainer to check the Customer Equipment. Rainbow may charge the Customer for any work undertaken in respect of a fault where the fault was not Rainbow's responsibility at Rainbow's then current hourly rates.

4.4 Rainbow will carry out any work required, by appointment between 9.00am and 5.00pm, on Business Days. If the Customer requires Rainbow to carry out work outside these hours, Rainbow reserves the right to charge the Customer for Rainbow's costs incurred in such work as its then current hourly "out of hours" rates.

4.5 Where the Customer has reported a fault and no Equipment is reserved, the Customer will allow Rainbow's designated maintainer to check the Customer Equipment. Rainbow may charge the Customer for any work undertaken in respect of a fault where the fault was not Rainbow's responsibility at Rainbow's then current hourly rates.

4.6 All rights in the allocated telephone numbers will remain with Rainbow and the Customer shall have no rights in any number that Rainbow allocates to the Customer. The Customer is not permitted to register allocated numbers as a trademark or assert ownership of any other rights, including without limitation intellectual property rights, in respect thereof, and the Customer will not sell or agree to transfer them to anyone else.

4.7 Rainbow may modify or amend any telephone numbers given to the Customer or introduce additional access codes.

4.8 The Customer will not act or rely upon the provision to it of a specific Non-Geographic Number until it has received confirmation from Rainbow that the Non-Geographic Number has been obtained and allocated to it.

5. CHARGES AND PAYMENT

5.1 If the call charges in any month fall below the agreed Committed Spend, the Customer will, if requested to do so by Rainbow, pay Rainbow the amount which is the difference between the actual call charges for that month and the Committed Spend.

5.2 We may vary the terms of this Agreement and the Charges from time to time. In the event that we make changes to this Agreement that are likely to cause a Material Detriment to you, you will be entitled to terminate this Agreement within 30 days of Rainbow notifying you of such changes. In order to ensure continuity, time will be of the essence for your notice to be received by us if we have not received your notice within that time, you will be bound by the terms of this Agreement as varied and will remain responsible for all Charges up to the point that the Service is discontinued.

5.3 Subject to Clause 5.2 above, we shall be entitled to notify you of any updates and/or variations of the terms of this Agreement

and our Charges, by email, through a notice in Rainbow invoices or by posting our updated Agreement or Current Prices and Offers at www.rainbowcomms.com. Unless we give you our prior consent in writing, you shall not be entitled to make any variations to this Agreement.

5.3 If Rainbow is not paid for minutes generated to the Customer's Non-Geographic Numbers, Rainbow will make no payment to the Customer in respect of those minutes.

5.4 If there are any changes to the rate that Rainbow is paid for minutes generated to the Customer's Non-Geographic Numbers, Rainbow may reduce the payment made to the Customer in relation to those minutes. If the change in the rate paid to Rainbow is backdated, the change in rate to the Customer will also be backdated.

5.5 All Charges shall be paid within 14 days of the date on the invoice, by the agreed payment method as specified on the Customer Application Form. With the exception of Charges disputed by the Customer in accordance with clause 5.11 below, all Charges payable by the Customer shall be paid in full without any deduction or set-off, withholding or counterclaim and any undisputed part of a disputed invoice shall be paid by the Customer in accordance with Part 9 of these Conditions.

5.6 Rainbow does not accept responsibility for delays in the billing of any Charges and any delay will not alter the Customer's liability to pay the Charges.

5.7 Rainbow may charge the Customer a re-connection fee of £100, where the Customer has been disconnected, or suspended for non-payment and/or for any other reason by the Customer in breach of this Agreement.

5.8 Rainbow may charge the Customer any additional administration charges, as listed in the Tariff Sheet, incurred where the Customer pays Rainbow's invoices other than by way of Direct Debit.

5.9 If the Customer fails to make any payment in full on the due date Rainbow may charge the Customer any reasonable additional administration costs and/or interest, (both before and after judgement) on the amount unpaid at the rate of 4% above the base rate from time to time of Ulster Bank Ltd.

5.10 Any monies received by Rainbow from the Customer may be applied by Rainbow at its option against any additional administrative costs and/or interest charged prior to application against any principal sums due from the Customer in respect of which it may be applied in any order.

5.11 In the event that the Customer wishes to dispute an item on the invoice, the Customer must do so in writing within 14 days of receipt of the invoice. The Customer must promptly pay any undisputed element of the invoice. The notice must set out in detail the nature of the dispute and copies of any supporting documentation as appropriate. Rainbow will determine the disputed item acting reasonably and Rainbow's response and/or decision will be final and binding on the Customer.

5.12 All Charges are exclusive of VAT at the then prevailing rate for which the Customer will be additionally liable.

5.13 Rainbow will, in its sole discretion, determine and vary the Customer's credit terms.

5.14 Customer's credit terms shall be determined under this Agreement even if Services have been suspended, disconnected or terminated for non-payment, or the Customer has transferred the number(s) to another telecommunications provider.

5.15 The Customer is responsible for the payment of calls made using the Customer's telephone lines. The Customer remains liable for any Charges incurred through the use of the Services by any third party.

5.16 Charges will be referred to by reference to the Tariff Sheet as published by Rainbow and not by reference to any data recorded or logged by the Customer, nor by reference to any information provided by Rainbow to the Customer for information purposes only.

6. SUSPENSION AND/OR DISCONNECTION OF SERVICES

6.1 Rainbow may terminate this Agreement and/or Customer Application Form immediately and without notice or liability to the Customer if: 6.1.1 Rainbow has reasonable grounds to suspect that the Customer is using the Service in contravention of the provisions of clause 4.1 above; and/or 6.1.2 the Customer has breached its credit terms; and/or 6.1.3 the Customer does not make any payment to Rainbow when due; 6.1.4 Rainbow has reasonable grounds to believe that the Customer will not and/or is unable and/or unwilling to make payment when due to Rainbow;

6.1.5 Rainbow has reasonable grounds to believe that the Customer is, has or may be involved in criminal activity or any other activity which in Rainbow's reasonable opinion may be materially detrimental to and/or have a materially adverse effect on Rainbow's business and/or reputation.

6.1.6 Rainbow is obliged to comply with an order, instruction or request of a court, government body, regulatory authority or other administrative or judicial authority.

6.1.7 The Customer's direct debit instruction fails and/or is cancelled.

6.2 During suspension of the Service, the Customer will have to pay all Charges due and any other reasonable costs and expenses that Rainbow may incur as a result of the suspension of the Service, together with any reconnection fee leviable by Rainbow in accordance with clause 5.7 above for any subsequent reinstatement of the Services.

7. TERMINATION OF SERVICES

7.1 At the end of the Contract Term the Agreement will automatically continue for successive periods equal in length to the Contract Term for each such period ("Further Contract Term").

7.2 The Customer may terminate this Agreement at any time provided that: 7.2.1 the Customer must give Rainbow 30 days' written notice. The Customer may give more than 30 days' written notice in order to procure that the termination takes effect on the last day of the Contract Term, or a Further Contract Term; 7.2.2 if any period of notice given under clause 7.2.1 expires on any day other than the last day of the Contract Term or of a Further Contract Term, the Customer will promptly make any payment required to be made to Rainbow by clause 7.5; and 7.2.3 the Customer will promptly pay Rainbow all Charges which are outstanding and due to Rainbow at the date of termination.

7.3 Either party may terminate this Agreement and/or Customer Application Form immediately on notice to the other party if: 7.3.1 the other party is in material breach of this Agreement and the breach is incapable of remedy; 7.3.2 the other party is in material breach of this Agreement and the breach has not been remedied within 14 days of the other party's notice requiring the breach to be remedied. For the avoidance of doubt, any failure by the Customer to make payment on or before the due date for payment comprises material breach for the purposes of this Agreement; 7.3.3 (where the terminating party is Rainbow), where the Customer pledges or charges any equipment which remains the property of Rainbow, or (in relation to either party) where the other party ceases or threatens to cease to carry on business, or proposes to compound with its creditors, or an interim order under section 123 Insolvency Act 1986 or has a bankruptcy petition presented against it, enters into voluntary or compulsory liquidation, has a receiver, administrator or administrative receiver appointed over all or any of its assets, or takes or suffers any similar action in any jurisdiction; and/or 7.3.4 the other party experiences an event of Force Majeure for a continuous period of 3 months.

7.4 Rainbow may terminate this Agreement: 7.4.1 from the end of the Contract Term or a Further Contract Term by giving thirty days' written notice; or 7.4.2 at any time, immediately upon notice, if it is required to terminate this Agreement by law or regulatory authority.

7.5 Where either the Customer or Rainbow terminates this Agreement in accordance with clause 7.2, and such notice expires to terminate this Agreement other than on the last day of the Contract Term or any Further Contract Term; and/or (ii) Rainbow terminates this Agreement in accordance with clause 7.3, the Customer will pay Rainbow within 14 days of the termination date: 7.5.1 the difference between the actual amount of the Customer's payments and the amount of the termination date and the Fixed Charges that would have been payable if the Agreement had not terminated before the expiry of such Contract Term or Further Contract Term; and 7.5.2 the Committed Spend for each full month remaining in the Contract Term or Further Contract Term in which termination occurs, 7.6.1 the Contract has been terminated by the Customer in accordance with clause 3.16, 5.2 or 7.3 above; or 7.6.2 the Contract has been terminated by Rainbow in accordance with clause 7.4 above.

7.7 Termination of this Agreement as a whole will operate to automatically terminate any Customer Application Form then in force. Termination of a Customer Application Form will not, unless expressly stated otherwise in the relevant notice of termination, operate to terminate this Agreement as a whole. Clauses 7, 8, 9, 12 shall survive termination of this Agreement.

8. LIMITATION OF LIABILITY

8.1 With the exception of the Customer's obligation to pay the Charges, each party's total liability to the other party under this Agreement in relation to any claim arising whether under breach of contract, tort (including without limitation negligence and breach of statutory duty) or otherwise shall not exceed in the aggregate £1,000,000. Save for any warranty or representation expressly given by Rainbow in this Agreement, Rainbow and the Customer accept and agree that any warranties (whether express, or implied by statute, common law or in any other way) to the fullest extent permitted by law. 8.2 Neither party will be liable to the other for any: 8.2.1 loss of profits, loss of data or loss of or damage to goodwill; 8.2.2 economic and/or similar losses; 8.2.3 business interruption, loss of business, contracts, opportunity and/or production; 8.2.4 any special, incidental, indirect or consequential losses (whether or not such loss or damage is of the type specified in clause 8.2.1).

8.3 Rainbow shall have no liability to the Customer in respect of any act or default or delay by BT, the Access Provider, any other communications provider and/or any regulatory authority in carrying out their obligations necessary to enable the provision of the Services and/or in respect of the termination of the Services by any regulatory authority or in relation to BT or for any act or omission of such an entity. Rainbow will have no liability to the Customer for any fault or defect where the fault or defect has been caused by the Customer. The Customer shall give Rainbow a reasonable opportunity to remedy any matter capable of remedy for which Rainbow is liable before the Customer incurs any costs and/or expenses in remedying the matter itself. If the Customer does not do so Rainbow shall have no liability to the Customer.

8.4 Rainbow shall have no liability for damage, loss, liability, claims, costs or expenses caused or contributed to by the Customer's continued use of defective or faulty Services after a defect has become apparent or suspected or should reasonably have become apparent to the Customer.

8.5 Rainbow shall have no liability for any costs, expenses, charges, losses and/or fees incurred by the Customer as a result of non-compliance with clause 4.8 by the Customer.

8.6 Each of the limitations and exclusions in this Agreement shall be deemed to be repeated and apply as a separate provision for each of: 8.6.1 liability for breach of contract; 8.6.2 liability in tort (including negligence); 8.6.3 liability for breach of statutory duty; and 8.6.4 liability for breach of any law or regulation except clause 8.1 which shall apply only in respect of all of the said types of liability.

8.7 The Customer indemnifies and will keep indemnified Rainbow against any and all losses or liabilities (including but not limited to expenses, costs (including increased administration costs and all legal costs on a full indemnity basis), claims (whether actual or threatened), proceedings, actions, demands, judgments, awards, damages, lost profits and other losses or liabilities incurred directly or indirectly by Rainbow directly or indirectly from the Customer in respect of: 8.9.1 breach of contract, tortious act and/or omissions (including negligence) breach of statutory duty or Common Law by the Customer; and/or 8.9.2 claim by a third party that the Customer's use of the Services infringes any rights of that third party.

8.10 The Customer will be liable under this Agreement for the acts and/or omissions of its employees, agents, officers, managers, executives and/or subcontractors (whether or not they remain as the Customer's employees, agents, officers, managers, executives and/or subcontractors) as if they were the Customer's own acts and/or omissions under this Agreement.

8.11 The Customer shall be liable for any damage, costs and/or expenses that it may suffer.

8.12 Notwithstanding any other provision of this Agreement, nothing in this Agreement will limit or exclude either party's liability for death or personal injury caused by that party's negligence or any liability due to that party's fraud or for any other liability which that party is not permitted to exclude or limit as matter of law.

9. GENERAL

9.1 Neither party shall have any liability to the other party for any delay in performance of this Agreement (other than in relation to payment) to the extent that such a delay is due to an event of Force Majeure. If a party is affected by any such event then time for performance shall be extended for a period equal to the period that such an event or events delayed such performance. If the event of the Force Majeure subsists for a continuous period exceeding 3 months then either party may terminate this Agreement without liability in respect of such termination.

9.2 Rainbow may vary these Conditions at any time upon service to the Customer of no less than 5 Business Days written notice where Rainbow is required to do so in order to comply with new laws, rules and/or regulations, by the Office for Communications or any other regulatory body and/or any changes to Rainbow's telecommunications licence.

9.3 Except to the extent permitted by this Agreement (including without limitation in accordance with clause 9.2 above) no variation to this Agreement shall be made by an authorised signatory of both the Customer and Rainbow respectively.

9.4 No waiver by Rainbow or any breach of this Agreement shall be considered as a waiver of any subsequent breach of the same provision or any other provision.

9.5 The Customer may not transfer the benefits or the obligations under this Agreement to any other party without Rainbow's prior written consent and the Customer will not transfer, sub-license or resell the Services for use by a third party. Rainbow may assign its rights, obligations, benefits and/or burdens under this Agreement to any member of its Group in whole or in part upon notice to the Customer, or to any third party with the prior written consent of the Customer, such consent not to be unreasonably withheld or charged for.

9.6 Any notices by either the Customer or Rainbow under this Agreement must be in writing and must be delivered by hand or by pre-paid mail to the relevant registered office.

9.7 If any provision of this Agreement is held to be invalid or unenforceable in whole or in part the validity of the other provisions of this Agreement shall not be affected and the provision shall remain in force and remain in full effect as if the invalid or unenforceable provision had not formed part of this Agreement.

9.8 The Information the Customer provides will be used by Rainbow to supply the Services and will not be used and/or disclosed other than in accordance with the Privacy Policy. Rainbow may record and/or monitor telephone calls made to Rainbow for training or customer service purposes.

9.9 All third party rights are excluded and no third party shall have any right to enforce this Agreement. This shall not apply to members of Rainbow's Group from time to time who shall, subject to Rainbow's consent, have the right to enforce this Agreement as if they were Rainbow. Any rights of a third party to enforce this Agreement may be varied and/or extinguished by Agreement between the parties to this agreement with the consent of any such third party.

9.10 Disputes between the Customer and the Customer and the Customer in respect of this Agreement and/or the Services, each party shall in the first instance promptly bring the dispute to the attention of the relevant parties. In respect of the Customer the relevant party will be the purchasing manager and in respect of Rainbow the relevant party will be the account manager responsible for the Customer's account with Rainbow.

9.11 If any dispute referred to the relevant parties under clause 9.10 has not been resolved within 5 Business Days of the date of the referral under clause 9.10 then the parties will refer to the Customer's and Rainbow's Financial Directors respectively.

9.12 This Agreement is governed by the law of Northern Ireland and the parties agree to submit disputes in connection with this Agreement to the exclusive jurisdiction of the courts of Northern Ireland.

10. SECURITY

10.1 The Customer is responsible for the security of its equipment and the confidentiality of any and all security details and must take all necessary steps to ensure the security of its equipment and any data made available to any unauthorised persons.

10.2 Rainbow does not guarantee the security of the Services against unauthorised or unlawful access or use.

10.3 Rainbow shall not be responsible for any third party activities in relation to use of the Services, including any fraudulent and/or criminal activities, and/or unauthorised access to use of the Equipment, the Customer Equipment and/or the System, and any costs arising from such activities shall be the responsibility of the Customer.