

**GENERAL TERMS
ENTERPRISE CUSTOMERS
(VERSION: OCTOBER 2017)**

This Agreement is made between Emirates Integrated Telecommunications Company PJSC, with a nominal share capital of 4,571,428,571 AED, the amount of which has been fully paid up, registered at the Dubai Department of Economic Development with commercial register number 77967, and with its main office at Dubai Media City, Al Salam Tower, PO Box 502666, Dubai, United Arab Emirates (**du**), and the signatory to this Agreement ordering Services on an approved Service Order (**Customer**).

THE PARTIES AGREE AS FOLLOWS

1. DEFINITIONS AND INTERPRETATION

1.1. In this Agreement, the following definitions apply:

Acceptable Use of Service Policy means the du policy that governs the Customer's use of the Service available at <http://www.du.ae/en/legal/Acceptable-Use-of-Service-Policy>.

Affiliate means any entity or person Controlled by, Controlling, or under common Control with, a Party.

Authorised End User means any director, officer, employee or sub-contractor of the Customer that receives a username and password in order to gain access to one or more of the Services.

Authorised Person means any director, officer, employee, sub-contractor or adviser of a Party.

Business Day means every day excluding Fridays, Saturdays, and any national holidays in the United Arab Emirates.

Cancellation Charge means a Charge payable in relation to cancellation of a Service before the Service Commencement Date.

Claims(s) means any claim whether in contract, tort (including negligence), misrepresentation, breach of statutory duty, indemnity or otherwise.

Confidential Information means any commercial, financial, technical, legal, marketing or other data, know-how, trade secrets or any other information of whatever nature relating to a Party or their respective businesses which has been disclosed (whether in writing, orally or by another means and whether directly or indirectly) by or on behalf of that Party to the other Party whether before or after the date of the Agreement.

Content means digitally stored and transmitted material, including text, pictures, images, audio, video, games, graphics, software or services incorporating any of these things.

Control, Controlled, or Controlling, as the context requires, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any entity whether through the ownership of voting securities, by contract, or otherwise.

Customer means the party listed as the customer on the Service Order.

Disclosing Party means a Party that disclosed Confidential Information.

Downgrade means any modification to the Service which reduces the capacity, use or utility of that Service.

du Equipment has the meaning set out at clause 10.2.

Early Termination Charge means the charge payable for cancellation of a Service after the Service Commencement Date but before expiry of the Minimum Term.

End-user means an individual end user of the Service provided to the Customer.

Enterprise Customer Care means du's customer care telephone service available to enterprise customers.

Equipment means the equipment supplied by or on behalf of du to the Customer.

Force Majeure means (each individually) an act of god, insurrection or civil disorder, war or military operations, national or local emergency, cable cuts, terrorist acts, industrial disputes or action including lock-out, partial or total strikes or other labour unrest (save where such industrial disputes or action solely affect the claiming Party), epidemic, blockage of means of transport or of supplies, earthquake, fire, storm, lightning, explosion, flood, water damage, land subsidence, weather of exceptional severity, unavailability or restricted supply of gas or electricity, acts or omissions of persons for whom neither Party is responsible including any third party telecommunications operator, acts or omissions of or restrictions imposed by any regulator or government agency (except to the extent such government or regulatory actions, omissions or restrictions take place or are imposed because the claiming Party has breached an applicable law), compliance with a statutory obligation, or any other cause outside a Party's control.

General Terms means the terms and conditions set out in this document comprising clauses 1 to 25.

Intellectual Property Rights means any patent, copyright, trademark, trade name, service mark, moral right, design right, database right, know how, and any and all other intellectual property rights whether registered or not or capable of registration and whether subsisting in the United Arab Emirates or any other part of the world together with any and all goodwill relating to such rights.

Minimum Term means the minimum period of connection for a particular Service.

Monthly Charge or **Monthly Recurring Charge (MRC)** means the **monthly** recurring Charge payable by the Customer to du for provision of a Service as specified in the Service Order.

Network means the communications network used by du.

Non Recurring Charge or **NRC** means the non-recurring charge payable by the Customer to du for installation of the Service and for the commissioning and configuration of the Service as specified in a Service Order

Party means du or Customer, as the content requires, and collectively referred to as the **Parties**.

Personal Information means any personal data relating to a specific person and includes, but is not limited to, that person's name, address, bank account details, credit card details, service usage details, call records, message records and any information derived from a person's use of the Services, account status, payment history and credit rating.

Personnel of a Party, means each of that Party's directors, officers, employees, agents, contractors, advisers and representatives but does not include that Party's End Users or the other Party.

Receiving Party means a party receiving Confidential Information.

Service(s) means a service to be provided by du to the Customer as specified in a Service Order and as further described in the relevant Service Schedule.

Service Commencement Date means the date that the Service is provisioned by du.

Service Delivery Point has the meaning given to it in the relevant Service Schedule and refers to the point where the Service ends.

Service Order means a du provided form signed by the Customer to order Service(s) pursuant to these General Terms.

Service Level Agreement or **SLA** means a set of key performance indicators for any particular Service (if applicable), as more particularly specified in the Service Level Agreement document.

Service Schedule means each Schedule setting out the specific terms and conditions relating to the Service being provided by du to the Customer under a Service Order.

Site means a Customer site to which the Service is delivered, as specified in a Service Order.

Standard Agreement or **Agreement** means this Agreement comprising the following documents:

- a. the General Terms;
- b. each Service Schedule;
- c. Service Level Agreement (if applicable); and
- d. each Service Order.

Tariff Guide means the tariff guide(s) on the du website (du.ae) specifying standard pricing for particular Services.

Taxes means any tax, duty or other charges of whatever nature (but excluding any tax, duty or other charge levied on income accruing to du hereunder) imposed by any taxing or government authority, including but not limited to, a value added, goods or services, or withholding taxes.

TRA means the Telecommunications Regulatory Authority of the United Arab Emirates.

UAE means the United Arab Emirates.

Unallowed Traffic means a flow of calls for any particular Service which du believes is: (i) disproportionate to the flow or volume of calls which du expects from good faith commercial practice and usage of the network; or (ii) disproportionate to Customer's previous call profiles (in any given month) with du.

Usage Charge means a charge which applies to a Service based on usage (eg, call charges).

VAT means value added tax or any like tax imposed in any jurisdiction from time to time.

Working Day means a day that is not a Friday, Saturday or public holiday in the United Arab Emirates.

2. PRECEDENCE

If there is a conflict between the documents referred to in this Agreement, then the documents will be given the following order of priority with sub-clause 2.1 having the highest order of priority:

- 2.1. General Terms;
- 2.2. relevant Service Schedule;
- 2.3. Service Level Agreement (if applicable);
- 2.4. relevant Service Order.

3. DURATION

3.1. **Start date.** This Agreement shall start on the date that du accepts your Service Order in accordance with clause 4.2.2.

3.2. **Term.** The Agreement continues until terminated by either Party in accordance with its terms.

4. ORDERING PROCESS

4.1. **Ordering.** To order a Service, Customer must complete a Service Order and submit it to du. Customer warrants the accuracy of Customer provided details contained in the Service Order.

4.2. **Acceptance.**

4.2.1. du may accept, reject or request further information about a Service Order. du shall not unreasonably withhold its acceptance of a Service Order.

4.2.2. du shall accept a Service Order either:

- a. in writing (electronic mail allowed) or
- b. by performing the Services or providing the Equipment in a Service Order.

4.3. **Incorporation of terms.** Each accepted Service Order shall be subsidiary to this Agreement and shall be deemed to incorporate the relevant terms of this Agreement to the exclusion of any other terms.

5. SERVICE PROVISIONING

5.1. **Services.** du shall provide all Services with reasonable skill and care but does not guarantee to provide complete or uninterrupted access to the Services.

5.2. **Security of communications.** Subject to all applicable laws and regulations, du shall exercise all reasonable efforts to ensure the security of the Customer's and End User's communications. However, for reasons beyond du's control, it does not promise or guarantee that communications will be completely secure.

5.3. **Customer Responsibilities.** If the Customer fails to comply with any of its responsibilities under this Agreement including as set out in clause 5.5 and in any Service Schedule or Service Order, then du will not be liable for any resulting delay or failure to provide the Services (subject to compliance with any applicable notice provisions) and any relevant time periods for du shall be extended until the Customer has complied with its responsibilities. du shall be entitled to charge the Customer any costs incurred by du as a result of any failure by the Customer to satisfy such responsibilities.

5.4. **Site access and regulations.** The Customer must provide access, or procure all necessary permissions or consents, to the Customer's Site to enable du to deliver, install and provide the Service to the Customer. du agrees to comply with any Customer access and security procedures for a Customer Site which du has approved in advance. In addition, the Customer confirms that any person attending a Customer Site from du, or on behalf of du, shall have a safe and suitable working environment.

5.5. **Provision of information and documents.**

5.5.1. **Customer information.** The Customer shall provide (and shall make sure that its End Users provide) all information and complete all documentation (including in relation to identification, legitimation and billing details) which is required by du or the TRA to perform this Agreement.

- 5.5.2. **Accuracy.** The Customer confirms that any information which it provides to du in connection with this Agreement or the provision of the Services is and will be complete and accurate.
- 5.6. **Acceptance of Services.** Acceptance of any Service provided by du shall be deemed to have occurred on whichever is the earlier of the following:
- 5.6.1. the expiry of 3 Business Days after du has notified the Customer that the Service is available for use;
- 5.6.2. the use of the Service by the Customer in its normal course of business.
- 5.7. **Telephone numbers and unique identifiers.** The Services may include use of a telephone number, domain name, email address or other unique identifiers. The Customer must comply with the requirements of any regulatory body which administers these identifiers. These identifiers are not the property of the Customer and du may recall them if it is required, or has good reason, to do so.
- 6. MIGRATION OF SERVICES FROM PREVIOUS SERVICE PROVIDER**
- 6.1. **Migration of number/ Services:** If the Customer is eligible to:
- 6.1.1. transfer a fixed Service; or
- 6.1.2. move its existing mobile number (ie, mobile number portability);
- from its previous service provider (**Previous Provider**) to du, the Customer remains liable to the Previous Provider for all outstanding charges in relation to those services .
- 6.2. **Non-payment to Previous Provider:** if the Customer fails to pay any outstanding charges (including any early termination Charges) to the Previous Provider, du may suspend and/or terminate the Services if payment is not made by the time specified. du shall notify the Customer prior to such suspension and/or termination.
- 7. USE OF SERVICE**
- 7.1. **Compliance with terms.** The Customer will only use the Services and Equipment in accordance with applicable law, the terms of this Agreement and any other reasonable instructions or conditions notified to the Customer by du (including any given as a result of instructions imposed by the TRA).
- 7.2. **Restrictions on the use of the Services and Equipment.** The Customer shall ensure that the Services or Equipment are not used:
- 7.2.1. other than in accordance with du's "Acceptable Use of Service Policy" available at <http://www.du.ae/en/legal/Acceptable-Use-of-Service-Policy>;
- 7.2.2. for the transmission of illegal or offensive material;
- 7.2.3. for the transmission of material that contains software viruses or any other disabling or damaging programs;
- 7.2.4. in any way which impairs or damages the Network or the provision of the Services;
- 7.2.5. except where previously approved by du in this Agreement:
- a. in a way which uses automated means to make calls using the Network;
- b. to make a computer permanently accessible as a server;
- c. for setting up connections where the caller receives payments from third parties, based on the call or the duration of the connection (eg, connections to advertising hotlines);
- d. for automated machine-to-machine data exchange;
- e. fraudulently or illegally or in violation of this Agreement.
- 7.3. **No reselling.** The Customer shall not resell, distribute or provide the Services or Equipment to any third party. For the avoidance of doubt, the use of the Services or Equipment by End Users shall not be deemed to be reselling.
- 7.4. **Accessing the internet.** Where use of a Service includes access to the internet, other data networks, websites, resources, software or Content, the Customer shall be responsible for all charges which result from such access and such access shall be at the Customer's own risk. du shall not be responsible for such Content unless du is the Content provider in which event different terms and conditions will apply.
- 7.5. **Responsibility for End Users.** Any End User may use Equipment and Services provided under this Agreement. The Customer will remain responsible for all obligations relating to the Equipment and Services, including payment obligations.
- 7.6. **Authorised End Users.** Where du designates that access to a Service (including ordering) shall be provided only to Authorised End Users, du will provide each Authorised End User with a user name and password. The Customer shall make sure that such details are kept current, secure, are used only in accordance with this Agreement and that du is notified of the identity of Authorised End Users from time to time. du accepts no liability for any unauthorized or improper use of any password, or for any unauthorized disclosure of user names and passwords to third parties.
- 8. SERVICE MODIFICATIONS**
- 8.1. **Customer requested modification.** The Customer may request a modification (which does not include suspension or cancellation) to the Service at any time by giving 30 days' written notice to du. du may agree, in its absolute discretion, to make that modification. If the Customer requested modification:
- 8.1.1. is a Downgrade, the Customer must pay a Downgrade Charge; and
- 8.1.2. is not a Downgrade, the Customer must pay the charges for making the modification (if any) notified to the Customer by du at the time.
- 8.2. **du modification.** du may make changes to the Services or Equipment or any part including enhancements, modifications or replacements, provided that such changes do not materially adversely affect the Customer's or End User's use of the Services or Equipment.
- 9. FAULT REPORTING**
- 9.1. **Reporting faults.** As soon as the Customer becomes aware of a fault in the Service the Customer must telephone Enterprise Customer Care or such other contact as is notified by du to the Customer. Enterprise Customer Care is available 24 hours a day, 7 days a week. The Customer can also report the fault by sending an email to

Business.Customercare@du.ae. Before reporting a fault the Customer must take reasonable steps to ensure that the fault is not a fault in any equipment located on the Customer's side of the Service Delivery Point.

9.2. **Faults caused by Customer.** If du investigates a fault and determines that the fault is attributable to any equipment on the Customer's side of the Service Delivery Point then:

9.2.1. du will use its reasonable endeavours to notify the Customer of the fault and its probable cause and location but will not bear any further liability or responsibility; and

9.2.2. du may charge the Customer for any costs incurred by du in investigating the fault if the cause of the fault is due to the Customer's act or omission beyond the Service Delivery Point.

9.3. **Fault resolution.** Where du investigates a reported fault and determines that the fault is attributable to equipment/service located on the du side of the Service Delivery Point, then du will restore the Service. Where the fault is attributable to a third party facility, du shall liaise with the third party and arrange for Service restoration.

10. EQUIPMENT

10.1. **Delivery of Equipment.** du shall deliver Equipment to the delivery address set out in the Service Order.

10.2. **du owned Equipment.** du may provide or lease Equipment to the Customer, in connection with the Service (**du Equipment**). The Customer holds the du Equipment as bailee for du. The Customer must keep the du Equipment free from any charge, lien, mortgage or encumbrance. Title in du Equipment remains with du. Unless otherwise agreed, du Equipment made available to the Customer must be returned to du when the Service ends otherwise du may charge the Customer for non-return of the equipment. The Customer is responsible for any damage to, or destruction or theft of, the du Equipment, except to the extent it is caused by du.

10.3. **Title.** For Equipment that is sold to the Customer (including "lease to own"), title transfers upon receipt by du of full payment for the Equipment in cleared funds.

10.4. **Risk.** Risk in the Equipment shall pass to the Customer upon delivery.

10.5. **Use of du Equipment.** Unless otherwise agreed, for du Equipment located at the Customer Site, the Customer must:

10.5.1. allow du's Personnel, and only du's Personnel, to service, modify, repair or replace the du Equipment; and

10.5.2. do all things reasonably required by du to make clear that du is the owner of the du Equipment;

10.5.3. provide access, free of charge, to equipment rooms to house the du Equipment;

10.5.4. ensure such equipment rooms meet the technical and environmental standards notified by du;

10.5.5. use the du Equipment in accordance with all reasonable instructions (written and/or verbal) notified by du or, in the absence of such instructions, to the same standard as if the equipment were the property of the Customer;

10.5.6. not interfere with the du Equipment, unless du has given its written consent;

10.5.7. keep the du Equipment at the Customer's Site safe and free from movement, external vibration or collision; and

10.5.8. not to do anything nor to allow to subsist any circumstances, matter or thing which is likely to damage the equipment or detract from or impair its performance or operation.

10.6. **Replacement.** If the du Equipment needs replacing through no fault of the Customer's own and is within the warranty period then du will not charge for its replacement. If the equipment is outside the warranty period then a charge may apply.

11. SUSPENSION OF SERVICES

11.1. **Material breach.** If the Customer or an End User commits a material breach of this Agreement, du will be entitled to suspend the Services and any Equipment from using the Network.

11.1.1. Such suspension will be without notice if this is required by law, on instructions from any governmental authority or where there is a breach of clause 7.1 (Compliance with Terms), clause 7.2 (Restrictions on Use of the Services and Equipment) or clause 7.3 (No Reselling) and each of these shall be deemed to be a material breach.

11.1.2. Suspension in the event of failure to pay will be as set out in clause 12.5.2 (Suspend the provision of Services/Equipment).

11.1.3. Except as set out in clauses 11.1.1, 11.1.2 and 11.1.3, in all other circumstances, prior to such suspension du will first provide 30 days' notice to the Customer.

11.1.4. If an End User commits a material breach, then the above right to suspend shall relate to the Services and Equipment provided to that End User only.

11.2. **Maintenance.** From time to time du will need to carry out maintenance, modification and testing of the Network, during which time du shall be entitled to suspend the Services. du may also suspend the Services if there is a technical failure of the Network, to safeguard the security and integrity of the Network or if required by law. du shall keep all suspensions to a minimum.

11.3. **Fraud and illegal usage.** du can without notice to the Customer (and unless notice is required by applicable law) suspend or restrict the use of any of the Services (other than emergency services) by the Customer or any End User(s) and take any other necessary steps to avoid repetition if:

11.3.1. du believes that any number, SIM, Equipment or Services are being used in an illegal or fraudulent way (including under clause 7.2); or

11.3.2. where du identifies what it reasonably determines to be Unallowed Traffic.

11.4. **Effect of Suspension.** If the Services are suspended due to the Customer's acts or omissions, the Customer must pay to du all reasonable costs and expenses incurred by du in the implementation of such suspension or the recommencement of the suspended Services and all Charges for the Services during any such period of suspension.

12. CHARGES AND PAYMENT

12.1. **Charges.** The Customer shall pay the Charges in AED Dirhams.

- 12.2. **Invoice.** du shall issue a monthly invoice to the Customer or shall issue an invoice at such other times as are specified in the Service Order.
- 12.3. **When to pay.** The Customer shall pay the Charges within 30 days of the date on any invoice.
- 12.4. **Invoice Disputes.** Where the Customer disputes that an invoice or any part of it is payable by the Customer, the Customer shall notify du within 21 days of receipt of the invoice, including details of why the invoiced amount is incorrect and, if possible, how much the Customer considers is due.
- 12.4.1. All other Charges not related to the dispute shall be paid in accordance with clause 12.3 (When to Pay).
- 12.4.2. Payment following Invoice Disputes:
- 12.4.3. If an invoice dispute is resolved in favour of the Customer, then du shall issue a credit in favour of the Customer.
- 12.4.4. If the dispute is resolved in favour of du, then the Customer shall promptly pay the disputed amount to du.
- 12.5. **What du may do if the Customer does not pay on time.** Where the Customer does not pay the Charges by the due date, and has not raised a dispute in accordance with clause 12.4 (Invoice Disputes), du shall be entitled to do the following:
- 12.5.1. **Late payment fee.** a late payment fee may be charged on any unpaid amount from the payment due date until payment is made by the Customer in full;
- 12.5.2. **Suspend the provision of the Services/Equipment.** If the Customer has not paid within 14 days of receiving notice of the failure to pay, du shall be entitled to suspend any further deliveries of any Equipment or the provision of any Services to which the non-payment relates until du has been paid in full and such failure to pay shall be deemed to be a material breach; and
- 12.5.3. **Withhold any sums owing.** du may withhold any sums currently owing to the Customer by du by way of credit note or rebate and offset such sums against the sums owing.
- 12.6. **Modifications.** If the Customer wishes to modify a Service Order, including without limitation a change in the capacity or Site location prior to the Service Commencement Date, du may charge the Customer the additional costs incurred by du as a result of such modification, which costs shall be notified to the Customer.
- 12.7. **Price changes.** du may change the Charges, or any terms and conditions that have the effect of a price increase, provided that it gives the Customer at least thirty (30) days prior notice. If the Customer does not accept the new Charges, the Customer may terminate the Service without any terminating liability to du provided that it terminates the Service before the increased Charges come into effect (ie, within the 30 day notice period).
- 12.8. **Cancellation Charge.** If the Customer wishes to cancel a Service Order after acceptance by du but before the Service Commencement Date, du may charge the Customer a Cancellation Charge.
- 12.9. **Early Termination Charge.** If the Customer wishes to terminate the Service before the expiry of the Minimum Term, an Early Termination Charge will apply as specified in the relevant Service Order.
- 12.10. **Taxes.** The Charges shall be exclusive of any applicable Taxes which shall be paid by the Customer to du where necessary.
- 12.11. **VAT.** As regards VAT, the provisions of this clause 12.11 shall apply:
- 12.11.1. The payments due under this Agreement are exclusive of VAT properly chargeable. Where du makes a taxable supply or deemed supply of goods or services to the Customer, du shall provide a valid VAT invoice to the Customer and the Customer shall pay the VAT in addition to the payment or other consideration for that supply on the earlier of: (a) when the payment or other consideration is made; or (b) when the supply is made.
- 12.11.2. Where the law requires the Customer to account for the VAT under the reverse charge mechanism or otherwise to the relevant tax authority and du is not liable to account for the VAT (e.g. on a supply of goods and services which involves more than one jurisdiction), the Customer will account for all VAT due in the relevant jurisdiction and no VAT will be due to du in addition to the consideration.
- 12.11.3. If this Agreement allows for termination where the Customer fails to pay what is due to du, this shall include failure to pay VAT in addition to the consideration when due in accordance with this Agreement.
- 12.11.4. Where the consideration for any taxable supply of goods or services is subsequently adjusted (including on a termination), the Parties will make all appropriate adjustments to the VAT, including the repayment of VAT, the further payment of VAT and the issue of any credit note or further VAT invoice valid for VAT purposes.
- 12.11.5. If the Parties are in dispute (with each other or with the relevant tax authority) or uncertain about the VAT obligations or implications of any supplies of goods or services pursuant to this Agreement, or the relevant tax authority determines that the Parties' treatment of VAT on such supplies is incorrect in any respect, the Parties shall use all reasonable endeavours to cooperate and reach agreement with each other and with the tax authority keeping each other fully informed and shall make all appropriate adjustments.
- 12.11.6. The Customer will ensure that it correctly accounts for VAT on its supplies to End Users and will indemnify du if it defaults in respect of any resulting liability for du, including for VAT, interest, penalties, fines and costs.
- 13. DEPOSITS AND CREDIT ASSESSMENTS**
- 13.1. **Deposit.** Some Services may require the Customer to pay a deposit for that Service. du will inform the Customer if a deposit is required for a particular Service. du may use any deposit against payment of the Customer's account (or any other account the Customer has with du) if:

- 13.1.1. the Customer has failed to pay a due amount and du has suspended the account; or
- 13.1.2. the Customer has failed to return equipment after a Service has been cancelled or suspended.
- 13.2. **Credit Assessment.** du may carry out a credit assessment based on the information the Customer gives to du. This will be used to set any credit limits that are applicable to the Customer. The Customer may be able to increase its credit limit by paying, or increasing, a deposit.
- 13.3. **Credit limit.** Once the Customer has reached its credit limit in any month, du may notify the Customer and then suspend the Customer's account until the Customer makes a payment to bring the Customer's balance below the Customer's credit limit. The Customer however, remains liable for all Charges incurred on the Customer's account irrespective of whether those Charges are above the credit limit. The Customer is liable to pay for Services used irrespective of the credit limit and should not use the credit limit for budgeting purposes.
- 14. WARRANTIES**
- 14.1. **Full Power and Authority.** Each of the Parties warrants that it has full power and authority to perform and observe its obligations under this Agreement.
- 14.2. **No other warranties.** Unless expressly set out in this Agreement all other warranties, representations and conditions (whether express or implied) are expressly excluded to the extent allowed by law.
- 15. LIABILITY**
- 15.1. **Certain liability not excluded.** Neither Party excludes any liability which cannot be excluded by law.
- 15.2. **Exclusion of liability.** Neither Party shall be liable under this Agreement (whether in contract, tort (including negligence), breach of statutory duty, indemnity or otherwise) for:
- 15.2.1. any loss, whether direct or indirect, of profit, revenue, data, anticipated savings or goodwill; or
- 15.2.2. any indirect or consequential losses, regardless of whether such losses were contemplated.
- 15.3. **Liability cap.** Each of du and Customer's liability for all losses arising under or in connection with all Claims arising under this Agreement shall not exceed in any 12 month period the amount of the Charges paid in respect of such Services and Equipment during that 12 month period or AED 500,000, whichever is less.
- 15.4. **Liability cap where less than 12 months.** If this Agreement has not been in effect for twelve (12) months prior to the date of the cause of action giving rise to the first Claim, then the limit of liability shall be the average monthly Charges payable for the months from the Service Commencement Date until the date of the cause of action giving rise to the first Claim, multiplied by 12 or AED 500,000, whichever is less.
- 15.5. **Exclusions from liability and the liability cap.** The Customer's liability to pay the Charges is expressly excluded from the exclusion of liability in clause 15.2 (Exclusion of Liability) and from the liability cap in clauses 15.3 and 15.4.
- 16. TERMINATION**
- 16.1. **Ending a Service by Notice.** Either Party may end a particular Service on 30 days written notice to the other, provided that:
- 16.1.1. any Service ends on or after the expiry of the relevant Minimum Term; and
- 16.1.2. any amounts specified in the Service Order and any applicable Early Termination Charge is paid.
- 16.2. **Ending the Agreement for Insolvency.** Where permitted by applicable law, either Party may end this Agreement with immediate effect by writing to the other Party if the other Party becomes bankrupt or makes an arrangement with or assignment in favour of a creditor, goes into liquidation or administration or a receiver or manager is appointed to manage its business or any analogous event occurs in the territory where the other Party is located.
- 16.3. **Ending the Agreement or Service for Breach.** Either Party may end this Agreement or a particular Service Schedule immediately upon written notice to the other if:
- 16.3.1. the other Party commits a material breach of this Agreement which is capable of remedy and is not remedied within 30 days of written notice from the first Party; or
- 16.3.2. the other Party commits a material breach of this Agreement which is not capable of remedy.
- 16.4. **Court order not required.** The Parties acknowledge and agree that a Court order will not be required to give effect to any termination of this Agreement.
- 17. CONSEQUENCES OF TERMINATION**
- 17.1. **Stop Using.** On termination of a Service, the Customer and its End Users shall stop using the Services and Equipment and after such termination the Customer shall immediately pay all outstanding Charges and any applicable Early Termination Charge.
- 17.2. **Access.** Where permitted by applicable law, du may after giving reasonable notice to the Customer enter any site where du Equipment is located to recover such du Equipment and Customer will not sell or transfer possession of the du Equipment to any third party.
- 17.3. **Early Termination Charge.** If:
- 17.3.1. the Customer requests the ending of any Service which has not fulfilled a Minimum Term; or
- 17.3.2. ending of the Agreement as set out above, results in the ending of any Service which has not fulfilled a Minimum Term,
- the Customer shall pay any applicable Early Termination Charge. This clause does not apply if the Customer has validly ended the Agreement under clause 16.2 (Ending the Agreement for Insolvency) or clause 16.3 (Ending the Agreement for Breach).
- 18. DATA PROTECTION**
- 18.1. **Applicable laws.** Both Parties will comply with applicable laws regarding data protection.
- 18.2. **Personal Information.** du must take all reasonable and appropriate measures to prevent the unauthorized disclosure or use of Personal Information. du may disclose Personal Information if such disclosure is:
- 18.2.1. permitted by any applicable law or regulation;
- 18.2.2. expressly permitted by the Customer;
- 18.2.3. made in the course of du making a credit check with a reputable credit reporting agency;

- 18.2.4. made in response to a lawful request by law enforcement agencies to assist in the investigation of criminal activity;
- 18.2.5. made in response to a lawful request from any competent authority in relation to matters involving the public interest and/or matters of state security;
- 18.2.6. made to the TRA in accordance with applicable regulations;
- 18.2.7. to an Affiliate, sub-contractor or other third party who is directly involved in the supply of the Service provided that du requires such third parties to take all reasonable and appropriate measures to protection the confidentiality and security of the Personal Information and to use it only as required for the purposes of providing the Service.
- 18.3. **Passwords.** The Customer's account details may be used to verify identity for access to various Services. These details must be kept safe. du will grant access to the Customer's account when the passwords are given correctly. du will not be responsible for any loss the Customer, or an End User, suffers as a result of failure to maintain password security.
- 18.4. **Monitoring.** du may monitor Customer's use of the Services and record calls made to Customer Care, for training, financial control, quality control and regulatory or legal purposes.
- 19. CONFIDENTIALITY AND ANNOUNCEMENTS**
- 19.1. **Disclosure.** All Confidential Information disclosed by a Disclosing Party to a Receiving Party under this Agreement shall be protected under the terms of this Agreement. All Confidential Information will remain the property of the Disclosing Party, which confirms that it has the right to disclose it but does not confirm its accuracy or completeness.
- 19.2. **Obligations.** Each Receiving Party shall use all Confidential Information solely for the purpose of this Agreement and whilst the Agreement is in force and for 5 years after the termination of the Agreement, shall:
- 19.2.1. not disclose it, except to any Authorised Person where strictly necessary to fulfil the purpose of this Agreement;
- 19.2.2. keep it in a safe and secure place and use reasonable measures to prevent unauthorised access, destruction, corruption or loss;
- 19.2.3. not make any copies, summaries or transcripts of it unless this is strictly necessary for the purpose of this Agreement (all such copies, summaries or transcripts will be deemed to be Confidential Information);
- 19.2.4. notify the Disclosing Party immediately if it becomes aware that any Confidential Information has been disclosed to, or is in the possession of, any unauthorised person;
- 19.2.5. upon written request, immediately return all of it to the Disclosing Party or destroy it if so directed. The Receiving Party may retain Confidential Information as required by law or regulatory requirement or that it may reasonably require for archive purposes. The provisions of this Agreement will continue to apply to any retained Confidential Information; and
- 19.2.6. inform its Authorised Persons of the provisions of this Agreement and take all steps necessary to confirm their compliance with them. All acts or omissions of a Party's Authorised Persons shall be treated as if they were the acts or omissions of the relevant Party itself.
- 19.3. **Exceptions.** Confidential Information shall not include any information that:
- 19.3.1. is generally and publicly available other than by breach of this Agreement;
- 19.3.2. is lawfully in the possession of the Receiving Party before its disclosure under this Agreement;
- 19.3.3. has been obtained from a third party who is free to disclose it;
- 19.3.4. is independently developed without access to any Confidential Information; or
- 19.3.5. a Party is required to disclose by law or to a regulatory authority.
- 20. INTELLECTUAL PROPERTY RIGHTS**
- 20.1. **du retains IPR ownership.** The Intellectual Property Rights that exist in or in any part of the Equipment or Services supplied under this Agreement, as well as any improvements or modifications thereto, belong to du or its licensors and, other than necessary for use permitted under this Agreement, no other right, license or transfer is granted or implied under such Intellectual Property Right.
- 21. CHANGING THE TERMS**
- 21.1. **Amendments required by law.** du may vary the Agreement at any time by giving written notice to the Customer when such variations are necessary to comply with applicable law, regulation or notices issued by the TRA.
- 21.2. **Amendments by du.** du may vary the Agreement at any time and if the amendment is a price increase, or has the effect of a price increase, du shall provide at least 30 days' notice to the Customer of such change. The Customer may terminate the Service (without being liable for any Early Termination Charges) if the Service is terminated prior to the changes coming into effect (ie, within the 30 day notice period). du's latest up to date version of this Agreement (with any amendments) shall be available on du's website at www.du.ae/en/terms-and-conditions
- 22. GOVERNING LAW AND JURISDICTION**
- 22.1. This Agreement is governed by the federal laws of the United Arab Emirates and the laws of the Emirate of Dubai, and any disputes shall (subject to clause 22.2) be subject to the exclusive jurisdiction of the courts of Dubai.
- 22.2. du may, at its option, commence and pursue proceedings in respect of any matters arising out of this Agreement in the DIFC Courts.
- 23. FORCE MAJEURE**
- 23.1. Neither Party will be liable for any failure to perform or for breach of this Agreement caused by an event of Force Majeure, provided that neither Party will be relieved of its obligations to make any payments for Services rendered under this Agreement. The affected Party claiming a Force Majeure event has impacted its ability to perform this Agreement must immediately inform the other Party in writing of the occurrence of the Force Majeure event, and the estimated extent and duration of such inability to perform its obligations.

23.2. Responsibilities and obligations specified in this Agreement are subject to immediate fulfilment after the end of the Force Majeure circumstances. Both Parties must use reasonable commercial endeavours to minimise the effects of an event of Force Majeure.

24. SURVIVAL OF CLAUSES

24.1. **Survival.** Clauses 14 (Warranties), 18 (Data Protection), 19 (Confidentiality and Announcements), 15 (Liability), 17 (Consequences of Termination), 25.1 (Notices) and 22 (Governing Law) shall survive the expiry or termination of this Agreement.

25. GENERAL

25.1. **Notices.** du will consider the Customer's consent to have received notices from du if du contacts the Customer at the latest postal address, email or SMS the Customer has given to du.

25.2. **Assignment and Subcontracting.** du may subcontract the performance of any of its obligations under this Agreement, but without relieving du from any of its obligations to the Customer. Neither Party shall assign its rights and obligations under this Agreement without the prior written consent of the other (not to be unreasonably withheld). This Agreement will be binding on, and continue to the benefit of, the Parties and their successors and permitted assigns.

25.3. **Entire Agreement.** This Agreement:

25.3.1. supersedes all prior oral or written understandings and/or representations between the Parties on this subject matter (unless specifically incorporated into the Agreement);

25.3.2. constitutes the entire Agreement with respect to its subject matter; and

25.3.3. shall not be amended other than in accordance with the terms of this Agreement.

25.4. **No Waiver.** Except as otherwise specifically provided in this Agreement, no failure to exercise, or delay in exercising, any right, power or privilege set forth in this Agreement will operate as a waiver of any right, power or privilege.

25.5. **Severance.** If any provision of the Agreement is held to be or becomes illegal, invalid or unenforceable in any respect, it will be severed from the Agreement and shall not affect or impair the legality, validity or enforceability of any other provision of this Agreement. The Parties will use reasonable endeavours to negotiate in good faith with a view to replacing the illegal, invalid or unenforceable provision with a valid and enforceable provision which achieves to the greatest extent possible the same effect as would have been achieved by the illegal, invalid or unenforceable provision but differing from the replaced provision as little as possible.

25.6. **Survival of Obligations.** The Parties' rights and obligations, which, by their nature would continue beyond the termination, cancellation or expiration of this Agreement, shall survive termination, cancellation or expiration of this Agreement.

25.7. **Capacity.** Each Party warrants that it has the necessary rights, licences and permissions to enter into and perform its obligations under the terms of this Agreement.