

GENERAL TERMS AND CONDITIONS OF CHINA UNICOM (EUROPE) OPERATIONS LIMITED (AS CUSTOMER)**1. INTERPRETATION**

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Charges: the charges payable by the Customer for the supply of the Services in accordance with Clause 6 (Charges and payment).

Commencement Date: has the meaning given in Clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with Clause 12.5.

Contract: the contract between the Customer and the Supplier for the supply of Services in accordance with these Conditions.

Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of control** shall be construed accordingly.

Customer: CHINA UNICOM (EUROPE) OPERATIONS LIMITED, a company incorporated and registered in the United Kingdom, whose registered office is at Level 19, 40 Bank Street, Canary Wharf, London, E14 5NR, with company registration number 05992614 and the company VAT number is 906591708;

Customer Materials: has the meaning set out in Clause 3.3.10.

Deliverables: all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports including drafts.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks [and service marks], business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information including know-how and trade secrets, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Order: the Customer's order for the supply of Services, as set out in the Customer's purchase order form.

Services: the services, including any Deliverables, to be provided by the Supplier under the Contract, as set out in the Specification.

Specification: the description or specification for the Services agreed in writing by the Customer and the Supplier.

Supplier: the company or entity from whom the Customer purchases the Services.

1.2 INTERPRETATION:

1.2.1 A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes all subordinate legislation made under that statute or statutory provision.

1.2.2 Any words following the terms **including, include, in particular, for example** or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.

1.2.3 A reference to **writing** or **written** includes fax [and email **OR** but not email].

2. BASIS OF CONTRACT

2.1 The Order constitutes an offer by the Customer to purchase Services in accordance with these Conditions.

2.2 The Order shall be deemed to be accepted on the earlier of:

2.2.1 the Supplier issuing written acceptance of the Order; or

2.2.2 any act by the Supplier consistent with fulfilling the Order,
at which point and on which date the Contract shall come into existence (**Commencement Date**).

2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

3. SUPPLY OF SERVICES

3.1 The Supplier shall from the date set in the Order and for the duration of the Contract provide the Services to the Customer in accordance with the terms of the Contract.

3.2 The Supplier shall meet any performance dates for the Services specified in the Order or that the Customer notifies to the Supplier and time is of the essence in relation to any of those performance dates.

3.3 In providing the Services, the Supplier shall:

3.3.1 co-operate with the Customer in all matters relating to the Services, and comply with all instructions of the Customer;

3.3.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;

3.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Contract;

3.3.4 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;

3.3.5 provide all equipment, tools and vehicles and such other items as are required to provide the Services;

3.3.6 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;

3.3.7 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;

3.3.8 comply with all applicable laws, regulations, regulatory policies, guidelines or industry codes which may apply from time to time to the provision of the Services, and with the Mandatory Policies;

3.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;

3.3.10 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation;

3.3.11 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services;

4. CUSTOMER REMEDIES

4.1 If the Supplier fails to perform the Services by the applicable dates, the Customer shall, without limiting or affecting other rights or remedies available to it, have one or more of the following rights:

- 4.1.1 to terminate the Contract with immediate effect by giving written notice to the Supplier;
- 4.1.2 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;
- 4.1.3 to recover from the Supplier any costs incurred by the Customer in obtaining substitute services from a third party;
- 4.1.4 to require a refund from the Supplier of sums paid in advance for Services that the Supplier has not provided; and
- 4.1.5 to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.
- 4.2 These Conditions shall extend to any substituted or remedial services provided by the Supplier.
- 4.3 The Customer's rights under the Contract are in addition to its rights and remedies implied by statute and common law.

5. CUSTOMER'S OBLIGATIONS

The Customer shall:

- 5.1 provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services;
- 5.2 provide such necessary information for the provision of the Services as the Supplier may reasonably request; and

6. CHARGES AND PAYMENT

- 6.1 The Charges for the Services shall be set out in the Order, and shall be the full and exclusive remuneration of the Supplier in respect of the performance of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.
- 6.2 The Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant purchase order number.
- 6.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the invoiced amounts within 30 days from the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 6.4 All amounts payable by the Customer under the Contract are inclusive of amounts in respect of value added tax chargeable for the time being (VAT).
- 6.5 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this Clause 6.5 will accrue each day at 1% a year above the Bank of England's base rate from time to time, but at 1% a year for any period when that base rate is below 0%.
- 6.6 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and shall allow the Customer to inspect such records at all reasonable times on request.
- 6.7 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against any liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Contract. Any exercise by the Customer of its rights under this clause shall not limit or affect any other rights or remedies available to it under the Contract or otherwise.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in or arising out of or in connection with the Services other than Intellectual Property Rights in any Customer Materials shall be owned by the Supplier.
- 7.2 All Customer Materials are the exclusive property of the Customer.

8. INDEMNITY

- 8.1 The Supplier shall indemnify the Customer against all liabilities, costs, expenses, damages and losses including but not limited to any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs calculated on a full indemnity basis and all other reasonable professional costs and expenses suffered or incurred by the Customer arising out of or in connection with:
 - 8.1.1 any claim brought against the Customer for actual or alleged infringement of a third party's intellectual property rights arising out of, or in connection with, the receipt, use or supply of the Services excluding the Customer Materials;

and

8.1.2 any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Services.

8.2 This Clause 8 shall survive termination of the Contract.

9. INSURANCE

During the term of the Contract, the Supplier shall maintain in force, with a reputable insurance company, professional indemnity insurance and public liability insurance to cover the liabilities that may arise under or in connection with the Contract and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

10. TERMINATION

10.1 Without limiting or affecting any other right or remedy available to it, the Customer may terminate the Contract:

10.1.1 with immediate effect by giving written notice to the Supplier if:

10.1.1.1 there is a change of control of the Supplier; or

10.1.1.2 the Supplier's financial position deteriorates to such an extent that in the Customer's opinion the Supplier's capability to adequately fulfil its obligations under the Contract has been placed in jeopardy; or

10.1.1.3 the Supplier commits a breach of Clause 3.3.7;

10.1.2 for convenience by giving the Supplier 3 months' written notice.

10.2 Without limiting or affecting any other right or remedy available to it, either party may terminate the Contract with immediate effect by giving written notice to the other party if:

10.2.1 the other party commits a material breach of any term of the Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;

10.2.2 the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent restructuring), being wound up (whether voluntarily or by order of the court, unless for the purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to carry on business; or

10.2.3 the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all or a substantial part of its business.

11. CONSEQUENCES OF TERMINATION

11.1 On termination of the Contract for any reason, the Supplier shall immediately deliver to the Customer all Deliverables whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.

11.2 Termination of the Contract shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

11.3 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination of the Contract shall remain in full force and effect.

12. GENERAL

12.1 Force majeure. Force Majeure Event means, in relation to a Party, an event out of such Party's reasonable control and not caused by such Party's default or negligence, including without limitation any flood, fire, lightning, earthquake, storm, explosion, meteor, accident, embargo, blockade, strikes, riot, civil disorder, insurrection, mob violence, any kind of war or war-like conditions, act of terrorism or of the public enemy, epidemic, pandemic, quarantine, inability to procure materials or transportation facilities, national or regional emergency, power outage, labour dispute or shortage, act or failure to act of any Government Authority or act of God. Neither party shall be in breach of the Contract nor liable for delay in performing, or failure to perform, any of its obligations under the Contract if such delay or failure result Force Majeure Event. If the period of delay or non-performance continues for 3 months, the party not affected may terminate the Contract by giving 30 days written notice to the affected party.

12.2 Assignment and other dealings.

12.2.1 The Customer may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

12.2.2 The Supplier shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of the Customer.

12.3 Confidentiality.

12.3.1 Each party undertakes that it shall not at any time and for a period of five years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by Clause 12.3.2.

12.3.2 Each party may disclose the other party's confidential information:

12.3.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 12.3; and

12.3.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

12.3.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

12.4 Entire agreement. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

12.5 Variation. Except as set out in these Conditions, no variation of the Contract, including the introduction of any additional terms and conditions, shall be effective unless it is agreed in writing and signed by the parties or their authorised representatives.

12.6 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.

12.7 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause 12.7 shall not affect the validity and enforceability of the rest of the Contract.

12.8 Notices.

12.8.1 Any notice or other communication given to a party under or in connection with the Contract shall be in writing and shall be delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or sent by email to the address specified in the Order.

12.8.2 A notice or other communication shall be deemed to have been received: if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if sent by email, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this Clause 12.8.2, business hours means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.

12.8.3 This Clause 12.8 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any other method of dispute resolution.

12.9 Third party rights.

12.9.1 Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

12.10 Governing law. The Contract, and any dispute or claim including non-contractual disputes or claims arising out of or in connection with it or its subject matter or formation shall be governed by, and construed in accordance with the law of England and Wales.

12.11 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.

13. ANTI-BRIBERY AND ANTI-CORRUPTION

13.1 The Supplier shall:

13.1.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);

13.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

13.1.3 comply with the Supplier's Ethics, Anti-bribery and Anti-corruption Policies as the Supplier may update them from time to time (Relevant Policies);

13.1.4 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Clause 13.1.2, and will enforce them where appropriate;

13.1.5 promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this agreement;

13.1.6 immediately notify the Customer (in writing) if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier and the Supplier warrants that it has no foreign public officials as direct or indirect owners, officers or employees at the date of this agreement;

13.1.7 within three months of the date of this agreement, and annually thereafter, certify to the Customer in writing signed by an officer of the Supplier, compliance with this Clause 13 by the Supplier and all persons associated with it under Clause 13.2. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request.

13.2 The Supplier shall ensure that any person associated with the Supplier who is performing services in connection with this agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Customer in this Clause 13 (Relevant Terms). The Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.

13.3 For the purpose of this Clause 13, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this Clause 1 a person associated with the Supplier includes but is not limited to any subcontractor of the Supplier.