



Stratus Technologies Ltd

Standard Terms & Conditions – Leased Lines

Any use and/or access of any of the Services by or on behalf of the Customer amounts to acceptance in full of these terms and conditions and the agreement by the Customer to all matters set out in the Contract. This Contract applies and governs the Services to the exclusion of all other terms.

1. DEFINITIONS AND INTERPRETATIONS

1.1 In these Terms and Conditions, the following words have the following meanings:

"Stratus" means Stratus Technologies Ltd, whose registered office is Unit 122 Ryans Row, Longbeck Ind Est. Redcar, Marske On Sea, TS11 6HB (with company number 10344537

"Business Day" means 8am to 5pm on any day which is not a Saturday, Sunday or bank or other public holiday in England and Wales.

"Change In Law" means any change in any law, enactment, order, regulation, directive, code of practice or other similar instrument occurring after the initial date of the Contract affecting Stratus and suppliers of services which are the same or similar to the Services and which results in an increase in the cost to Stratus of providing the Services.

"Charges" means the charges payable by the Customer to Stratus in respect of each Service (including any set-up charges) as more particularly described in the Service Agreement and in relation to certain Services (including as to the frequency of payment, the basis on which such charges may be varied (which shall be in addition to any increases in accordance with Clause 4), and the price of any equipment which is being sold or leased by Stratus to the Customer).

"Commencement Date" means the date on which the Service is first available for use by the Customer as notified to the Customer by Stratus in accordance with Clause 2.4. Where Stratus is to provide more than one Service, it is the date on which the first service is available for use as notified to the Customer by Stratus in accordance with Clause 2.4. Where the Service is to be provided at more than one site of the Customer, the date shall be the date on which the Service is available for use at the first site to be commissioned and notified to the Customer by Stratus in accordance with Clause 2.4.

"Confidential Information" means all information relating to a party or any aspect of a party's business and products (including operations, plans, market opportunities, customers, know-how (including designs, processes of production and technology), trade secrets, business methods, databases, and software disclosed to the other party (whether in writing, orally or by any other medium and whether marked as confidential or not at the time of disclosure) and all other information which is or could reasonably be considered to be confidential to a party whether by reason of its content or the method of its disclosure.

"Contract" means these Terms and Conditions together with the Service Agreement, the Service Level Agreement (if there is one), the Customer Specification (if there is one), and any other documents set out or expressly referred to in any of those documents as forming part of this Contract.

"Customer" means the person to whom Stratus is to provide a Service as identified in the Service Agreement.

["Customer Equipment" means any hardware or other equipment which is part of any Service, Stratus permits the Customer to bring onto, install or operate at any premises of Stratus.]

"Customer Specification" means the proposal document prepared by Stratus in relation to particular Services and which sets out the technical specification of those Services and any roll-out or installation timetable.

"Customer Technical Summary" means a detailed technical summary of the IT infrastructure of the Customer or the Customer's data storage requirements prepared by the Customer or Stratus on the basis of information provided by the Customer.

"Data Protection Legislation" means the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and thereafter any successor or replacement legislation to the GDPR and/or Data Protection Act 1998.

"Data Service" means any service which provides the customer with a means of backing up and restoring its data, including long term data storage.

"Date of the Contract" means the date on which the Customer signs the Service Agreement and identified therein.

"Equipment" means any equipment used in the provision of a Service and installed at the Customer's or Stratus's premises and owned by Stratus or a third party provider.

"Force Majeure" means any event which is beyond the control of a party or which it would not be reasonable to expect a party to control, other than any circumstance the consequences of which would have been avoided if it had taken reasonable precautions (which it did not take) which, having regards to all matters known to it before the occurrence of such circumstance and all relevant factors, it should reasonably have taken. Such events include any act of God, act of terrorism, war, national emergency, insurrection, riot, labour dispute affecting a third party (for which a substitute is not readily available), severe weather conditions utilities failure, telecommunications failure or governmental interference.

"Group Company" means in respect of each party, all subsidiary companies of that party together with any parent or holding company and all other subsidiary companies of that parent or holding company (the relevant expressions being as defined by the Companies Act 2006).

"Intellectual Property Rights" means patents, trademarks, service marks, trade names, registered and unregistered designs, trade or business names, copyright (including rights in software), database rights, semi-conductor rights, rights in confidential information and any other intellectual property rights whatsoever, irrespective of whether such intellectual property rights have been registered or not, which may subsist in any part of the world from time to time.

"Minimum Term" means the minimum period for the provision of the Service(s) being the minimum Contract term as set out in the Service Agreement. Where a specific date is stated, it will end on that date and where a period of months is stated such period will commence on the Commencement Date or, in the case of a Service being provided to multiple sites of the Customer, the date on which Stratus informs the Customer that such service is available for use at the final site to be commissioned. Where Stratus is to provide more than one Service, it commences on the date the last Service is available for use by the Customer at the last site at which that Service is to be commissioned.

"Month" means a calendar month.

"Service" means each service to be provided by Stratus to the Customer as specified in the Service Agreement and as described in the relevant Customer Specification and any other applicable documents forming part of the Contract.

"Service Agreement" means the sales order which these terms and conditions are supplement to, which sets out, amongst other things, details of the Customer, the Services to be provided to the customer by Stratus and the Minimum Term and notice periods if different from those set out herein for those Services.

"Service Credit" means the amounts (if any) as set out in the applicable Service Level Agreement (if there is one) which are to be paid by Stratus to the Customer in accordance with Clause 11.3 in the event that Stratus fails to provide any Service in accordance with the applicable Service Level.

"Service Level" means the service level for a Service specified in the Service Level Agreement for that Service (if there is one).

"Service Level Agreement" means the version of the service level agreement (if there is one) applicable to the provision of a Service current at the date of the Contract.

"Software" means any software which is made available by Stratus for use by the Customer in connection with or as part of any Service.

"Telephone Service" means any service which includes the provision of facilities to make or receive telephone calls together with any related services.

"Term" means, in respect of each Service, the period during which Stratus is to provide that Service to the Customer commencing on the Commencement Date and ending when terminated in accordance with Clause 14.

1.2 In this Contract: words denoting the singular include the plural and vice versa; words denoting any gender include all genders; reference to any person includes a reference to companies and all other legal entities; any reference to a statute, statutory provision, subordinate legislation or code of practice is a reference to that statute, statutory provision, subordinate legislation or code of practice as amended, modified or re-enacted from time to time; any reference to a regulatory body includes a reference to any successor or replacement regulatory body; and any uses of the word "include" or "including" shall be deemed followed by the words "without limitation".

2. PROVISION AND USE OF THE SERVICES

- 2.1 Stratus shall provide each Service to the Customer for the applicable Term with reasonable skill and care and in accordance with the applicable Service Level Agreement and as specified in the Service Agreement.
- 2.2 Stratus shall ensure that it complies at all times with all legislation, laws, codes of practice, and Licence conditions applicable to the provision of the Services, including any applicable obligations under the Data Protection Legislation.
- 2.3 The Customer shall ensure that it complies at all times with all legislation, codes of practice and licence conditions applicable to its use of the Services, including any applicable obligations under the Data Protection Legislation, any reasonable policies of Stratus regarding the use of any Services which are advised to it by Stratus from time to time in writing.
- 2.4 Stratus shall use its reasonable endeavours to commence the provision of each Service by any dates (if any) set out in the Customer Specification or the Contract. At the request of the Customer, Stratus shall provide reasonable supporting evidence to the Customer to demonstrate that any Service has been made available for use by it. The Customer will provide Stratus with all access to its premises and assistance reasonably required by Stratus to install equipment and commission the Service by the agreed date(s) and, if no date has been agreed, as soon as reasonably practicable after the date of the Contract.
- 2.5 Stratus reserves the right to amend, vary or change any Equipment, Software or Service (including the technical specification for any Service, the Equipment or the Software used to provide any Service or the Customer Specification for any Service) provided that such amendment, variation or change does not materially and adversely affect the provision of any Service. Where Stratus reasonably considers that it is necessary to suspend the provision of any Service or any part of a Service (including, without limitation, the provision of a service to a particular site of the Customer) for the purposes of carrying out amendment, variation, change, repair, maintenance or improvement of or to any Service, Software and/or Equipment, Stratus shall use its reasonable endeavours to ensure that the Customer receives reasonable notice of any such work. During the continuance of any such work, Stratus shall continue to provide the Services in accordance with any applicable Service Level.
- 2.6 The Customer shall not use (nor allow any employee, sub-contractor, agent or any third party to use) any Service:
- 2.6.1 In a way which is offensive, indecent, menacing, a nuisance or defamatory;
- 2.6.2 To send, knowingly receive, upload, download, store, display or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing, which is in breach of copyright or other Intellectual Property Rights, confidence, privacy or any other third party right;
- 2.6.3 Fraudulently or in conjunction with the commission of any criminal offence;
- 2.6.4 To spam or send or provide unsolicited advertising or promotional material or to knowingly receive responses from spam or unsolicited advertising or promotional material sent or provided by the Customer or any third party acting on its behalf;
- 2.6.5 In an unlawful manner or in contravention of any legislation, laws, codes of practice, licence conditions, third party rights or any reasonable instructions of Stratus from time to time regarding the use of any service; and/or
- 2.6.6 To resell any service or act in any other way to breach of this Contract and fair use of the Services.
- The provisions of this Clause 2.6 shall not apply in respect of any material which is sent, stored or reproduced by the Customer for the legitimate and lawful purposes of the usual business of the Customer. The Customer shall indemnify, keep indemnified and hold Stratus harmless against any liability, cost, claim, fine, damage or expense made against or suffered by Stratus arising out of any breach by the Customer of its obligations pursuant to this Clause 2.6 and the indemnity shall not be limited by Clause 11.4.
- 2.7 Stratus may suspend the provision of any Service (or any part of a Service) without liability to the Customer (including to pay Service Credits) where there is (or Stratus reasonably suspects there is):
- 2.7.1 Any unauthorised access to the Customer's network which may result in unauthorised access to Stratus's network, the suspension to last until such time as that unauthorised access ceases or is demonstrated by the customer not to have occurred; and/or

- 2.7.2 Any breach by the Customer of any of its obligations under Clause 2.6.

For the avoidance of doubt, the Customer shall remain liable to pay the Charges for all Services during any period of suspension pursuant to the Clause 2.7 and no Service Credits shall accrue.

- 2.8 Stratus reserves the right to suspend or vary any Service (or part of a Service and whether generally or in respect of the Customer only) where it is required to do so by law, or at the direction of any court or governmental or other regulatory body, or as a result of the loss or revocation of any licence which Stratus requires to provide that Service. During the period of any such suspension, the Charges for the suspended Service (or part thereof) will not be payable unless the suspension arises as a consequence of an act or omission of the Customer, its employees or agents or person authorised by the Customer to use the Service.

3. CHARGES AND PAYMENT

- 3.1 The Customer shall pay Stratus for the services provided in line with the Service Agreement. Recurring charges will be billed from the Commencement Date. One-off charges will be billed following the delivery of the service and/or goods unless agreed otherwise.
- 3.2 All charges and other payments which may become due under the Contract are exclusive of VAT which (if applicable) shall be payable by the party making the payment in question at the rate from time to time in force.
- 3.3 All invoices issued by Stratus shall be paid by the customer within fourteen days of the date of the invoice.
- 3.4 The Customer must provide any purchase order number or other reference which it wishes to appear on any invoice to be issued by Stratus at least twenty-eight days prior to the date on which the invoice in question is to be raised. The purchase order should be sent to accounts@Stratus-technologies.co.uk. The Customer shall not be entitled to reject any invoice issued by Stratus on that ground that it fails to include a purchase order number or other references where the Customer has failed to notify it to Stratus in accordance with this Clause.
- 3.5 Stratus shall be entitled to suspend the provision of any service (or part of a service) without liability to the customer (including to pay service credits) during any period during which any overdue sums are due to it from the Customer. During any such period of suspension, the Customer shall remain liable to pay the charges for the suspended services.
- 3.6 Interest shall accrue on all overdue amounts due from the Customer to Stratus from the due date until payment in full of all overdue amounts at a rate of four per cent (4%) per annum above the base lending rate from time to time of Barclays Bank plc.
- 3.7 The Customer shall not be entitled to make any deduction from any amount due from it to Stratus nor shall the Customer be entitled to exercise any right of set-off.
- 3.8 Where the Customer has a bona fide dispute as to the amount of any invoice issued by Stratus which it has informed Stratus of in writing within 14 days of the date of the invoice, the Customer shall be entitled to withhold payment of the disputed amount only (provided it pays the undisputed amount in accordance with Clause 4.3) pending resolution of that dispute. Following resolution of that dispute, the Customer shall pay to Stratus within seven days (or before the end of the original period of payment if earlier) any amount which it agrees or is ordered to pay together with interest (if applicable) calculated in accordance with Clause 3.6.
- 3.9 Should Stratus fail to issue a credit note to the Customer for any Service Credits which have become payable by Stratus within the time period for issuing such credit note as specified in the relevant Service Level Agreement then the Customer shall be entitled to deduct the value of those Service Credits from the next invoice issued by Stratus for the charges for the Services to which those Service Credits relate.
- 3.10 A charge of £10.00 shall be added to all invoices which are not paid by Direct Debit. The Customer hereby acknowledges and agrees such charge represents a fair and genuine administration charge taking account of the additional difficulties of invoicing and collection for Stratus where dealing other than on the basis of Direct Debit. Completing a Direct Debit mandate and paying by Direct Debit will avoid the £10 monthly non-direct debit charge.
- 3.11 It is standard practice for Stratus to conduct a customer credit check and use that information to issue a customer credit limit. You hereby consent to our use of all relevant Customer information for the purposes of such credit checks, and to our sharing such information with the relevant third parties involved in such credit checking. Following such credit checks it may be necessary for an upfront payment to be made by the Customer to Stratus.

If in relation to recurring rentals, the upfront payments will be taken as the final months of the Minimum Contact Term.

4. CHARGES ADJUSTMENT AND ADDITIONAL COST ITEMS

- 4.1 In addition to its other rights under this Clause 4 to increase the Charges in certain specified circumstances, Stratus shall also be entitled to increase the Charges for any Service following the expiry of the Minimum Term for the Service in question by serving not less than 28 days' written notice on the Customer. In the event that the Customer does not wish to pay the increased charges then it shall within 28 days of receipt of the relevant notice from Stratus serve three months' written notice to terminate the provision of the Service in question. During that notice period, the Charges for the service in question shall not include the increase proposed by Stratus which resulted in the Customer electing to terminate the provision of that Service.
- 4.2 Where any Charge is stated to be based on the volume of the Customer's use of a Service then Stratus shall be entitled to vary such Charge at any time in accordance with the relevant Service Agreement to reflect the actual use of that Service by the Customer from time to time. In such circumstances, Clause 4.1 does not apply. The minimum contracted quantity as stated in the Service Agreement will apply throughout the contract term.
- 4.3 If a service is found to be unavailable at a Customer site, the Customer shall pay all reasonable costs incurred by Stratus in installing that technology and undertaking any necessary network upgrades. Alternatively, within five (5) Business Days of the Customer being informed that such technology is unavailable, the Customer may terminate the provision of that particular Service (or part of the Service) by serving written notice on Stratus subject to the customer paying all reasonable costs incurred by Stratus in anticipation of providing that Service to the Customer.
- 4.4 Where in connection with the provision of any Service it is necessary for a circuit to be installed at the Customer's site by a third party network provider, the Customer accepts that the installation charges may be higher than those specified in the Service Agreement because the third party's site survey identifies circumstances or issues not originally contemplated by the parties at the date of the Contract. Within five (5) Business Days of the Customer being informed that the installation charges are to be increased, the Customer may terminate the provision of that particular Service (or part of the Service) by serving written notice on Stratus subject to the Customer paying all reasonable costs incurred by Stratus in anticipation of providing that service to the Customer.
- 4.5 The capacity of any circuits located at each of the Customer's sites has been agreed between Stratus and the Customer as the bandwidth required as at the date of the Contract for the then current traffic flow across the Customer's network. In the event that any subsequent modifications are required as a result of variances in actual traffic flow, such modifications shall be paid for by the Customer (in full and on demand) in addition to the relevant Charges such increased charges to take effect from date at which they began to accrue, regardless of when the aforementioned notice is served or expires.
- 4.6 Where any third party network provider increases its charges to Stratus for the ongoing provision of any network or circuit used by the Customer as part of any Service, Stratus shall be entitled to increase the relevant charges by an amount equal to the increase in charges payable by Stratus to the relevant third party network provider by serving not less than 28 days' written notice on the Customer such increased charges to take effect from date at which they began to accrue, regardless of when the aforementioned notice is served or expires.
- 4.7 In the event of any Change In Law occurring, Stratus shall be entitled to increase the Charges, such increased charges to take effect from date at which they began to accrue, regardless of when the aforementioned notice is served or expires, to reflect the increased cost to Stratus of providing the services as a result of that change in law by serving not less than 28 days' written notice of such increase on the Customer.

5. TELEPHONE SERVICES AND INTERNET PROTOCOL ADDRESSES

- 5.1 Stratus shall use its reasonable endeavours to provide uninterrupted telephone and internet services, however no warranty or other representation is given by Stratus that any telephone or internet service will be error or fault free or offer all of the services and facilities associated with traditional telephone and internet lines (and for this reason, the Customer shall ensure that appropriate alternative arrangements are in place for the making of emergency calls). Stratus shall have no liability to the Customer in respect of any interruptions to any telephone or internet service (other than to pay any applicable Service Credits) and the Customer shall not be entitled to any

refund of Charges (or to withhold payment of any Charges). In particular, the Customer acknowledges that the performance of any telephone or internet services may be impaired by the uploading or downloading of data by the Customer across the same network used to provide those telephone and internet services and that Stratus shall have no liability to the Customer (including to pay Service Credits) in such circumstances.

- 5.2 Where the Customer uses equipment in connection with any telephone or internet service of a type not approved for use with that Service by Stratus, Stratus shall have no liability to the Customer (including to pay Service Credits) as a result of any errors or faults with any Service which are attributable to the Customer's use of such un-approved equipment.
- 5.3 Stratus shall use its reasonable endeavours to resolve any fault with any telephone service which is reported to it by the Customer as soon as reasonably practicable. In the event that Stratus agrees to work outside of its Business Day to remedy any such fault, then this shall be subject to the Customer agreeing to pay Stratus's additional charges for such out of hours' work. Stratus reserves the right to charge the Customer for any such work undertaken by Stratus in investigating and/or remedying any fault with any telephone or other service which is reported to it by the Customer which subsequently turns out not to exist, to have been caused by the act or omission of the Customer or to have been caused by the Customer using equipment in connection with any Service of a type not approved for use with that Service by Stratus.
- 5.4 Where Stratus provides any internet protocol addresses, telephone numbers or codes to the Customer as part of any Service then the Customer shall not acquire any legal, equitable or other rights in respect of the same other than the right to use the internet protocol address, telephone number or code in question during the Term of the relevant Service in accordance with the terms of this Contract. All Intellectual Property Rights and other property subsisting in any internet protocol address, telephone number or code provided to the Customer by Stratus shall at all times remain vested in Stratus or its third party licensor (as applicable).
- 5.5 The customer shall not sell, transfer or lease any internet protocol address, telephone number or code which is provided to it by Stratus and, subject to Clause 5.6, upon termination of the Service in connection with which any internet protocol address, telephone number or code was provided, the right to use such internet protocol address, telephone number or code shall revert back to Stratus immediately.
- 5.6 Subject to there being an appropriate porting agreement in place between Stratus and the relevant network carrier, the customer may 'port' telephone numbers to and from Stratus, upon Stratus's agreement in writing.
- 5.7 Stratus reserves the right to withdraw or change any internet protocol addresses, telephone numbers or codes which have been provided by it to the Customer at any time on reasonable written notice.

6. CUSTOMER TECHNICAL SUMMARY

- 6.1 Any Customer Technical Summary which is included as part of a Customer Specification shall be relied on by Stratus to produce the technical specification for the Service to which it relates and the applicable Charges for that Service. The Customer warrants that any Customer Technical Summary provided by it or any information provided by it to enable Stratus to complete the Customer Technical Summary is complete, accurate, up to date and not misleading in any way. If found to be inaccurate or misleading, the Contract can be taken as void at Stratus's absolute discretion and Stratus reserves the right to charge the Customer in full for all reasonably incurred costs, and for all Stratus's time and materials associated therewith.

7. PREMISES

- 7.1 Access by the Customer and its representatives to any premises of Stratus shall at all times be subject to compliance with the access and security policies of Stratus for the time being in force. The Customer shall indemnify Stratus against all loss, damage, liability, claims and expense that Stratus or any of its other customers may incur by reason of any act or omission of the Customer or any of its representatives whilst on any premises of Stratus (including any failure by the Customer to comply with its obligations pursuant to the Contract). [Where as part of any Service Stratus permits the Customer to install any Customer Equipment at any premises of Stratus, the only right which is granted is the right to locate such Customer Equipment upon the premises of Stratus during the term of provision of the Service in question. The provision of any such Service shall not create any relationship of landlord and tenant between Stratus and the Customer.]
- 7.2 Each of Stratus and the Customer shall ensure that all of its employees, agents, sub-contractors and other persons authorised by it whom the other may permit access to its premises are suitably qualified, skilled and experienced to carry

out the work for which they are entering the premises of the other. Stratus or the customer shall be entitled to refuse any individual access to its premises without liability to the other party where it has reasonable grounds for suspecting that such individual does not have the appropriate skills, qualifications or experience or who may pose a threat to safety or security.

- 7.3 Whilst on any premises of the other party, Stratus and the Customer shall comply with all reasonable site procedures of the other party notified to it in advance in writing.
- 7.4 In respect of any work to be undertaken by either party or a third party at any premises of the Customer in connection with the provision of a Service, the Customer shall be solely responsible for obtaining at its own cost and in sufficient time to enable the work in question to be undertaken any necessary consents required to undertake that work, including landlord's consent and wayleaves or easements required to enable network communications to be made to the Customer's premises.
- 7.5 Where it is agreed that the Customer is to make alterations to its premises in order to allow the installation of equipment or a circuit or to receive a Service, this shall be recorded in the relevant Customer Specification together with the dates by which those alterations must be completed and the Customer shall complete any such alterations by those specified dates.
- 7.6 The Customer shall allow Stratus such access to any of the Customer's premises at such times as Stratus may request to enable it to perform its obligations under this Contract, including access to enable Stratus to install, alter, vary, change, maintain, repair, replace or upgrade Equipment and Software or, on termination or expiry of the Contract or any applicable Service, to remove Equipment and Software from any premises of the Customer (and the Customer shall not be entitled to deny Stratus or any third party access to any of its premises in such circumstances by reason of any dispute). Where requested by Stratus, such access may include remote (as opposed to physical) access to Equipment and Software installed at any Customer premises. Subject to the Customer providing Stratus or any third party with the necessary access to its premises, Stratus undertakes to remove all equipment from any premises of the Customer within 45 days of the expiry or termination of the provision of the services to which the Equipment in question relates (unless it is necessary for such equipment to remain on site in order to enable the continued provision of a Service, the provision of which has not expired or terminated).
- 7.7 Stratus shall use its reasonable endeavours to undertake any work which requires access to the Customer's premises during the Business Day Stratus but reserves the right to require the provision of out of hours' access. Where the Customer requests that Stratus undertakes any work at its premises outside of Business Day, Stratus reserves the right to make an additional charge in respect of the provision of such out of hours' work.

8. STRATUS EQUIPMENT

- 8.1 Where as part of any Service Stratus or a third party installs Equipment or Software at any premises of the Customer, such Equipment and Software shall at all times remain in the ownership of Stratus or the third party owner. The Customer shall not acquire any rights of ownership in or title to any such Equipment or Software and shall not (whether by operation of law or otherwise), have any lien, charge or similar rights over such Equipment or Software.
- 8.2 Risk of damage to or loss of any Equipment or Software of Stratus or the third party owner installed at any premises of the Customer shall be borne by the Customer from the time such Equipment or Software is installed by Stratus or the third party until Stratus or the third party commences its removal. The Customer shall ensure that such equipment and software is insured at its own cost against fire, theft and all usual risks (including loss or damage caused by an event of Force Majeure). In the event of any damage to or loss of any Equipment or Software whilst at the risk of the Customer (other than damage or loss caused by Stratus or the third party), the Customer shall pay to Stratus the cost of repairing or replacing (as applicable) the Equipment or Software in question regardless of whether or not such costs are recoverable by the Customer under the policy of insurance maintained by it.
- 8.3 Where Stratus agrees to sell any equipment to the customer and delivers such equipment to the Customer prior to payment being received, risk of damage to or loss of that equipment shall pass to the Customer upon delivery. Title to any such equipment shall remain with Stratus until payment for that equipment in full is received from the Customer, at which point title shall transfer to the Customer. Prior to title passing to the Customer, Stratus shall be entitled to enter any premises of the Customer at any time to recover that equipment should payment for it be overdue from the customer or should any of the events as listed in Clause 12.5.2 occur to the Customer.
- 8.4 In respect of any Equipment or Software installed at any Customer premises, the Customer shall:

- 8.4.1 Take reasonable care of that Equipment and Software, such obligation to include prohibiting any person other than those authorised by Stratus to access, damage, alter, tamper with, move, remove, replace or repair that Equipment or Software;
- 8.4.2 Immediately inform Stratus of any damage to, loss of or alterations to such Equipment or Software;
- 8.4.3 Maintain at its own cost any operating environment for that Equipment or Software as may be reasonably specified by Stratus from time to time;
- 8.4.4 Provide at its own cost an adequate electricity supply and suitable earth connections for that Equipment or Software;
- 8.4.5 Not remove, alter or obscure any labels or markings which identifies that Equipment or Software as the property of Stratus or a third party; and
- 8.4.6 Not charge, mortgage or otherwise encumber that Equipment or Software.

9. CUSTOMER EQUIPMENT

- 9.1 Where, as part of any service, Stratus permits the Customer to install any Customer Equipment at any premises of Stratus, the only right which is granted to the Customer is the right to locate that Customer Equipment at the premises of Stratus during the Term of that Service. No relationship of landlord and tenant is created between Stratus and the Customer.
- 9.2 Stratus shall be entitled to access any Customer Equipment located at its premises (including any Customer Equipment located in a private suite or locked cabinet) at any time for the purposes of performing maintenance or other works in the case of an emergency or for health and safety reasons. The Customer shall provide Stratus with any security codes, access passes or keys necessary to enable access by Stratus in accordance with this Clause 9.2.
- 9.3 Stratus reserves the right to require the Customer to relocate, at Stratus's cost, any Customer Equipment located at any premises of Stratus to an alternative location within the same premises. In the case of a private suite, Stratus shall ensure that the alternative location provides at least the same floor space. Stratus shall provide the Customer with at least ten (10) Business Days written notice of any requirement for it to relocate any Customer Equipment pursuant to this Clause 9.3.
- 9.4 The Customer shall be solely responsible for the provision, installation, configuration and maintenance of all Customer Equipment. Risk of loss or damage to the Customer Equipment shall remain with the Customer at all times and the Customer shall be responsible for insuring all Customer Equipment against fire, theft and all usual risks (including loss or damage caused by an event of Force Majeure).
- 9.5 The Customer shall ensure that all Customer Equipment;
- 9.5.1 Is supplied, configured and used in accordance with all applicable manufacturer's instructions, safety standards, best industry practice and the reasonable instructions of Stratus;
- 9.5.2 Is not added to, modified, removed or changed without the prior written consent of Stratus (such consent not to be unreasonably withheld or delayed);
- 9.5.3 Does not exceed any power utilisation agreed with Stratus or specified in the Contract.
- 9.6 At the request of Stratus from time to time, the Customer shall provide Stratus with an accurate list of all Customer Equipment installed at any premises of Stratus.
- 9.7 Within seven (7) days of the date of termination of any Service in respect of which any Customer equipment is located any premises of Stratus, the Customer shall remove that Customer Equipment from the premises of Stratus during usual working hours of Stratus (making good any damage and subject to access being granted by Stratus). In the event that the Customer fails to remove the Customer Equipment within:
- 9.7.1 Such seven-day period, then the Customer shall continue to pay the charges for the terminated Service as though the Service was continuing (although Stratus shall not be obliged to provide the Service) until such time as the Customer Equipment is removed by the Customer or otherwise disposed of by Stratus in accordance with Clause 9.7.2; and
- 9.7.2 28 days of the date of termination of that service, Stratus shall be entitled to: (i) place that Customer Equipment into storage (and the Customer shall pay to Stratus on demand all reasonable costs insured by Stratus in

connection with that storage); (ii) sell that Customer Equipment accounting to the Customer for the proceeds of any sale (after first deducting any amounts owing from the Customer to Stratus howsoever arising and the costs of effecting sale); or (iii) dispose of that customer equipment (and the customer shall pay to Stratus on demand all reasonable costs incurred by Stratus in disposing of that Customer Equipment).

10. OTHER OBLIGATIONS OF THE PARTIES

10.1 In addition to the obligations of each party as set out in these terms and conditions, each party shall also comply with the other obligations and responsibilities as may be specified in any other document which forms part of the Contract.

11. LIMITATION OF LIABILITY

11.1 Neither party seeks to limit or exclude its liability for death nor personal injury caused by negligence nor in respect of fraud or fraudulent misrepresentation and no provision of the Contract shall be interpreted as attempting to exclude or limit such liability.

11.2 Stratus shall have no liability to the Customer (including to pay Service Credits) in respect of any failure or delay by it to provide the Services in accordance with the Contract where such failure or delay is attributable to any failure or delay by the Customer to comply with its obligations under the Contract.

11.3 Where the Service Level for any Service provides for Service Credits to be payable by Stratus in the event that it fails to provide that Service in accordance with that Service Level, such Service Credits shall be paid by Stratus in the form of a credit note. The Service Credits have been agreed between the parties as a fair and reasonable assessment of the likely loss and damage which the Customer would suffer as a result of Stratus failing to meet the applicable Service Level and, therefore, represent the full extent of Stratus's liability for failure to achieve the relevant Service Level. Payment of the relevant Service Credits by Stratus shall represent the Customers sole and exclusive remedy in respect of any such failure by Stratus and the Customer hereby waives its right to claim for any additional loss and damage suffered by it in excess of the value of the Charges which would have been payable by the Customer during that service period had Stratus provided the Service in question in accordance with the applicable Service Level. Stratus shall not be liable to pay any Service Credit which would otherwise become due in consequence of a breach by the Customer of these terms and conditions. If there is no Service Level applicable to a Service or Service Credits are not payable for failure to achieve a Service Level, then Stratus shall have no liability to the Customer for non-availability of the relevant Service.

11.4 Subject to the other provisions of this Clause 11 (and save in respect of any damage to the premises of Stratus, termination charges and indemnities in favour of Stratus to which this limitation shall not apply), the total aggregate liability of each party to the other for any and all claims by the other in connection with the provision of each Service or otherwise arising out of or in connection with a Service or the Contract for each 12 months period commencing on the date of the Contract and the anniversary thereof shall be limited to the amount of the Charges paid or payable by the Customer for the provision of the Service giving rise to the claim in question during the preceding 12 months (or during the first 12 Months of the Term the Charges paid and payable during that period) subject to a maximum amount of £1,000,000 if lower than the actual amount of the Charges over that 12 Month period.

11.5 In no circumstances shall Stratus be liable to the Customer for the following types of loss:

11.5.1 Loss of profit;

11.5.2 Loss of anticipated profit;

11.5.3 Loss of revenue;

11.5.4 Damage to goodwill;

11.5.5 Damage to reputation;

11.5.6 Loss of business;

11.5.7 Loss of savings or anticipated savings;

11.5.8 Any form of indirect loss, consequential loss or incidental loss;

11.5.9 Any loss or damage arising as a result of any loss of or corruption to data (whether temporary or permanent);

11.5.10 Any loss or damage arising out of an inability to restore data due to the loss of or damage to any encryption key by the Customer or anyone acting on the Customers behalf.

12. TERM AND TERMINATION

12.1 Subject at all times to earlier termination in accordance with the provisions of these terms and conditions, the provision of each service by Stratus to the Customer shall continue until the expiration of the Minimum Term. Following the expiry of the Minimum Term, the Contract for the provision of the service(s) shall automatically renew for successive periods of 12 months unless either party serves on the other not less than three months' written notice of termination, such notice to expire at the end of the minimum term or an anniversary of the date on which the minimum term expires.

12.2 The provision of certain services is dependent upon the customer also being provided with certain other related services. If, following the termination, for whatever reason, of the provision of any particular service, Stratus would be unable to continue to provide the customer with any such related services, then the termination of that single service shall be deemed to be in addition a termination of all such related services.

12.3 In addition to the payment by Stratus of any applicable Service Credits in accordance with any applicable Service Level Agreement, the Customer shall be entitled to terminate the provision by Stratus of a Service prior to the expiry of the Minimum Term or thereafter in the event that Stratus fails to make the Service in question available for a period in excess of 24 consecutive hours on three occasions in any period of three consecutive Months. The Customer shall only be entitled to exercise its right to terminate pursuant to this Clause 12.3 by serving written notice of termination on Stratus within 28 days of the date of the third qualifying period of unavailability with termination of the Service in question then taking effect on the expiry of that 28 days' period. In the event that no notice of termination is received by Stratus by the expiry of that 28 days' period, the Customer shall be deemed to have waived its right to terminate pursuant to this Clause 12.3 on that particular occasion.

12.4 In the event that the Customer exercises its right to terminate the provision of a Service pursuant to Clause 12.3, Stratus shall, within 28 days of the date of termination, refund to the customer any advance charges which may have been paid by the Customer in anticipation of the provision of that Service after the date of termination.

12.5 Without prejudice to its other rights or remedies, either party shall be entitled to immediately terminate:

12.5.1 The provision of all or any of the Services by serving written notice of termination on the other party (such notice to be served within 45 days of the breach giving rise to the right to terminate occurring) in the event that the other party commits a material breach of any of its obligations pursuant to these terms and conditions in connection with the provision of the Service in question, which, in the case of a material breach which is capable of remedy, is not remedied within 30 days following receipt of written notice from the party not in material breach requiring the party in breach to do so;

12.5.2 The provision of all Services in the event that the other party enters into any compromise or arrangement with its creditors or becomes unable to pay its debts within the meaning of section 123(1) of the Insolvency Act 1986, if an order is made or an effective resolution is passed for the other party's winding up (except for the purposes of amalgamation or reconstruction as a solvent company), if a petition to wind up the other party is presented to court (which is not withdrawn within 14 days) or if a receiver, manager, administrative receiver or administrator is appointed in respect of the whole of any part of the other party's assets.

12.6 Without prejudice to its other right and remedies, Stratus shall be entitled to terminate at its discretion the provision of all or any of the Services by written notice in the event that the Customer fails on three or more occasions to pay any invoice (to the extent that the customer has not disputed it in accordance with Clause 3.8) within 14 days of its due date and any such termination shall be deemed to be as a consequence of a material breach by the customer.

12.7 Termination of the provision of any individual Service shall not affect the continuing applicability of the Contract in respect of all remaining Services which are still to be provided nor shall it affect the continuing enforceability of any provision of the Contract concerning the terminated Service which, whether expressly or by implication, is to survive the termination of that particular service.

12.8 Termination of the provision of all Services shall not affect the continuing enforceability of any provision of the Contract which, whether expressly or by implication, is to survive termination.

12.9 On the day following the date on which the provision of a data service terminates (or the expiration of the period of 21 days referred to in Clause 14.3) the service will be completely decommissioned by Stratus and, subject to

Clause 14.3 and 14.4, all data stored by Stratus in connection with the use of the data service will be deleted or delivered back to the Customer, as the Customer may reasonably require.

12.10 Internet / Leased Line termination costs are as follows

- 12.10.1 Prior to Site Survey a £500 Administration Fee Applies*,
- 12.10.2 Post Site Survey / Pre-Go-Live a £500 Administration Fee, any Construction Costs and 90% of Full Term Contract Rental Applies**
- 12.10.3 Post Go-Live Full Term Contract Rental Applies.

* At the discretion of Stratus

** Exception being where ECC's (excess construction charge) are identified where the client has the option to cancel without charge

12.11 In the event the Customer terminates or gives notice to terminate (for any reason other than Stratus's material breach) the Contract or Services, and whether terminating the Contract in whole or in part, prior to the end of the specified Minimum Term then:

- 12.11.1 Any outstanding charges owed up to the end of the Minimum Term will become immediately due for payment in full; and
- 12.11.2 If the contract includes telephony charges, the termination charge shall include 30% of the average sell charge for calls in the 6 months prior to the cancellation month (for the lines subject to cancellation) multiplied by the number of contracted month outstanding

12.12 If the Contract is terminated by either party hereto, or otherwise expires, the Customer shall in addition to any early termination amounts immediately pay to Stratus all arrears of charges together with any interest under the Contract up to the date of termination or expiry.

12.13 In the event, the Minimum Term has expired and the subsequent anniversary has elapsed prior to such termination or notice, the Customer shall pay:

- 12.13.1 Any outstanding charges owed up to the end of the extended term as defined in Clause 12.1, and;
- 12.13.2 If the contract includes telephony charges, the termination charge shall include 30% of the average sell charge for calls in the 6 months prior to the cancellation month (for the lines subject to cancellation) multiplied by the number of contracted month outstanding in the extended term.

13. FORCE MAJEURE

13.1 No failure or delay by either party to perform its obligations in accordance with the Contract (other than the obligation to pay the Charges for the Services) shall give rise to any claim by the other or be deemed a breach of the Contract if such a failure or delay results directly from an event of Force Majeure.

13.2 In the event that Stratus is prevented from providing any Service to the Customer by reason of an event of Force Majeure for a period of in excess of ten (10) consecutive Business Days, then the customer shall:

- 13.2.1 Not be liable to pay the Charge associated with the provision of the Service in question during the continuance of the event of that Force Majeure event; and
- 13.2.2 Be entitled to immediately terminate the provision of the Service affected by the event of Force Majeure by serving written notice on Stratus if such event continues for a period in excess of 60 days.

14. OWNERSHIP, DISCLOSURE AND RETURN OF CUSTOMER DATA

14.1 Stratus acknowledges that it shall not acquire any rights of ownership in respect of any data stored by the Customer using any Service.

14.2 Where a data service is terminated by the customer under Clause 4.1 or either party under Clause 12.1 the customer will remove its data from Stratus's data centre by use of the data service during the relevant notice period.

14.3 In the event that the provision of any data service is terminated by the customer pursuant to Clauses 12.3 or 12.5 and the Customer wishes to retrieve any data stored by using the data service following such termination then the customer shall inform Stratus of this in writing at the same time as the Customer gives notice of termination. Subject to the Customer having paid Stratus all sums of money for the time being due and payable to Stratus, Stratus shall then allow the Customer to continue to use the data service free of charge for a period of up to 21 days for the purpose only of carrying out such retrieval or provide the Customer free of charge with a portable disk restoration of such data (which method being entirely at the discretion of Stratus).

14.4 In the event that the provision of any data service is terminated other than by the Customer pursuant to Clauses 12.3 or 12.5 and the Customer wishes to retrieve any data stored by it using a data service the Customer shall by written notice to Stratus on or before the date of termination elect for retrieval of the data carried out by Stratus using a portable disk in which case the Customer must pay immediately all Charges which may be outstanding at the date of termination and the then current Charge for the provision of such retrieval via portable disk. Stratus shall have no obligation to permit the use of the data service beyond the termination date so that the Customer may retrieve its data.

15. SOFTWARE LICENSING AND INTELLECTUAL PROPERTY

15.1 Ownership of all and any Intellectual Property Rights in any Software shall at all times remain vested in Stratus and/or its third party licensors (as appropriate). The Customer shall not acquire ownership of or title to any such Intellectual Property rights pursuant to the Contract or by the provision of any Services.

15.2 Subject to the payment by the Customer of the Charges for the relevant Service and the compliance by the Customer with its obligations pursuant to the Contract, Stratus grants to the Customer a non-exclusive, non-transferable, revocable licence to use the Software in order to utilise the Service to which it relates only during the term of the provision by Stratus of the Service in question.

15.3 The Customer will not and will not permit any third parties to:

- 15.3.1 Distribute or allow others to distribute copies of the Software or any part thereof to any third party;
- 15.3.2 Tamper with, remove, reproduce, modify, amend or copy the Software or any part thereof;
- 15.3.3 Provide, rent, sell, lease, licence or otherwise transfer the Software or any part thereof or use it for the benefit of a third party;
- 15.3.4 Reverse assemble, reverse compile, reverse engineer the software or any part thereof; and/or
- 15.3.5 Attempt to discover the source and/or object code of the software or any other underlying proprietary information.

This Clause 15.3 shall apply without prejudice to any rights which the Customer may have in respect of the Software which cannot lawfully be limited or excluded.

15.4 Certain Software, use of which is licenced to Stratus by third parties, may require the Customer to enter into an end user agreement with the relevant third party licensor and it shall be a condition of the provision of the Service in question that the Customer enters into and abides by the terms of any applicable end user agreement.

15.5 Subject to compliance by the Customer with Clause 15.4, Stratus warrants that (where applicable) it is authorised to sub-licence use of software in which the Intellectual Property Rights are owned by a third party to the Customer in connection with the provision of the relevant Services.

15.6 Subject to compliance by the Customer with Clause 15.7, Stratus shall indemnify the Customer for all losses, claims, liabilities, expenses and costs which the Customer may incur to a third party as a result of the use or possession by the Customer in accordance with the Contract of any Software in which the UK registered Intellectual Property Rights are owned by Stratus being found to infringe the Intellectual Property Rights of any third party (excluding any such claims which relate to data stored by the Customer using any Service).

- 15.7 The indemnity set out in Clause 15.6 shall only have an effect if the Customer:
- 15.7.1 As soon as reasonably possible informs Stratus of any claim or potential claim which it receives or which it becomes aware that it may receive;
 - 15.7.2 Makes no admission as to liability in respect of any claim or potential claim without the prior written consent of Stratus;
 - 15.7.3 Allows Stratus (at the cost of Stratus) to have sole conduct and control of the defence and/or settlement of any claim or potential claim; and
 - 15.7.4 Provides Stratus with such support, information and assistance as it may reasonably request in connection with the investigation, defence and/or settlement of any claim or potential claim..

16. ENCRYPTION KEYS

- 16.1 Where, in order to make use of the Service, the Customer is provided with any encryption keys by Stratus, those encryption keys shall be held at the risk of the Customer and it shall be the sole responsibility of the Customer to ensure that those encryption keys are kept safe and secure. The Customer acknowledges that Stratus shall not be able to undertake the restoration of any data where the Customer has lost any applicable encryption key provided to it and that Stratus shall have no liability to the Customer in such circumstances.

17. ENFORCEMENT OF THE CONTRACT BY THIRD PARTIES

- 17.1 No person who is not a party to the Contract shall have any right to enforce the Contract pursuant to the Contracts (Rights of Third Parties).

18. CONFIDENTIALITY

- 18.1 Other than to its responsible employees, sub-contractors, professional advisers who need to have such Confidential Information disclosed to them or except insofar as a party may have a statutory duty to disclose any Confidential Information of the other party or is required by law or a regulatory body to do so), neither party shall divulge or communicate to any third party any Confidential Information of the other party but such restriction shall cease to apply to any Confidential Information if a party which may lawfully come into the public domain other than through the act or default of the other party.
- 18.2 Each party shall be entitled to use the Confidential Information of the other party only in connection with the performance of the Contract and not otherwise or for its benefit or the benefit of any third party.
- 18.3 Confidential Information does not include any information which: (i) is in the public domain, (ii) had been created by the other party without reference to the disclosing party's information, or (iii) was already in the rightful possession of the receiving party, free from any obligations of confidentiality to others prior to disclosure to the receiving party by the party claiming confidentiality.

19. AMENDMENTS TO THE CONTRACT

- 19.1 Stratus shall be entitled to make such reasonable amendments to any document comprising the Contract as may be necessary from time to time to ensure continuing compliance with any applicable legislation, law, or code of practice.
- 19.2 Subject to Clause 19.1 and save where otherwise provided in the Contract that a document may change, no amendment to any document comprising the Contract shall be valid unless and until made in writing and signed by Stratus and the Customer.

20. ASSIGNMENT OF THE CONTRACT AND SUB-CONTRACTING

- 20.1 The Customer shall not be entitled to assign or novate any of the rights or obligations under the Contract without the prior written consent of Stratus, such consent not to be unreasonably withheld or delayed. For the purposes of Clause 20.1, Stratus shall not be deemed to have acted unreasonably should it refuse to consent to any assignment or novation by the Customer to any third party who is not, in the reasonable opinion of Stratus, of the same financial standing or creditworthiness as the Customer.

- 20.2 Stratus shall be entitled to assign or novate any of its rights or obligations under the Contract to any Group Company who shall in turn be entitled to assign or novate those rights or obligations to other Group Companies.
- 20.3 Stratus shall be entitled to sub-contract the performance of any of its obligations under the Contract provided that any such sub-contracting shall not reduce Stratus's liability to the Customer under the Contract. If, as a result of any act, omission or default by a sub-contractor, Stratus is liable to compensate the Customer under the Contract in respect of any claim, loss, damage, cost or liability, the Customer will (or will procure that the relevant member of its group will) on written request from Stratus and at no cost to Stratus assign to Stratus any and all rights of action against the sub-contractor in respect of such claim, loss, damage, cost or liability which vests in the Customer or any member of its group.

21. GENERAL

- 21.1 Any notice or other communication to be given under the Contract shall be in writing and may be sent via email or post (at the sending party's option). Notice shall be enacted once delivery can be evidenced. Such emails shall be sent by the customer to billing@Stratusts.com and from Stratus to the billing contact specified in the Service Agreement.
- 21.2 For the purpose of Clause 21.1 where notice is made in writing and by post (not email), the authorised business address of Stratus shall be its registered office for the time being and, in the case of the Customer, the address as set out in the Service Agreement. Either party may notify the other party in writing from time to time of a change in its authorised address to another address in the UK provided that notice of that change is given in accordance with the requirements of Clause 21.1.
- 21.3 The Contract and the documents referred to in it contain the entire agreement and understanding of the parties and supersede all prior arrangements and understandings (both oral and written) relating to the subject matter of the Contract (including any proposals submitted to the Customer by Stratus not expressly incorporated into the Contract). The Contract shall supersede and take precedence over any purchase order or other document submitted by the Customer setting out or referring to any contractual conditions, all of which are hereby excluded.
- 21.4 Neither party has relied upon any warranty nor representation except as expressly provided for or referred to in the Contract. All warranties, conditions, terms and representations, express or implied (whether by law, statute or otherwise) if not expressly incorporated into the Contract are excluded to the fullest extent permitted by law.
- 21.5 Nothing in the Contract is intended to nor shall it create any partnership, joint venture, agency or other fiduciary relationship between the parties who are with respect to each other, independent contractors.
- 21.6 Any provision of any document comprising the Contract which is held to be invalid or unenforceable shall be deemed ineffective to the extent of such invalidity or unenforceability without invalidating or rendering unenforceable the remaining provisions of the Contract.
- 21.7 No failure, delay or neglect by a party to enforce any provision of the Contract shall be construed nor be deemed to operate as a waiver of that party's right in respect of such a provision nor shall it affect the validity of the Contract or any provision in the Contract nor prejudice that party's right to take any subsequent action.
- 21.8 The Contract shall be governed by and construed in accordance with the laws of England and Wales and the parties hereby submit to the exclusive jurisdiction of the courts of England.
- 21.9 The customer consents, unless such consent is withdrawn by written notice, to Stratus disclosing for marketing purposes that the customer is a customer of Stratus in respect of the services.

22. General Data Protection Regulation

- 22.1 Stratus will process data that may contain personally identifiable information on behalf of the Data Controller (customer) only when there is no reasonable alternative method of delivering the services contracted to the Customer.
- 22.2 Both parties will comply with all applicable requirements of the General Data Protection Regulation. This clause 22 is in addition to, and does not relieve, remove or replace, a party's obligations under the data Protection Legislation

- 22.3 The parties acknowledge that for the purposes of the General Data Protection Regulation, the Customer is the data controller and Stratus is the data processor (where Data Controller and Data Processor have the meanings as defined in the General Data Protection Regulation).
- 22.4 Stratus's lawful rationale for processing Personal Data is Legitimate Interest when that interest is in the delivery of services to our customers (or enquiries into potential delivery of services to potential customers) who may hold, as data controllers, personal information on data subjects and request we process this on their behalf in the delivery of the agreed services.
- 22.5 Without prejudice to the generality of Clause 22.2 Stratus shall, in relation to any Personal Data processed in connection with the performance by Stratus of its obligations under this Contract:
- 22.5.1 Only process personal data when there is no reasonable alternative method of delivering the contracted services to the Customer or Stratus is required by laws of any member of the European Union or by the laws of the European Union applicable to Stratus to process Personal Data (**Applicable Laws**). Where Stratus is relying on laws of a member of the European Union or European Union laws the basis for processing Personal Data, Stratus shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit Stratus from so notifying the Customer;
- 22.5.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 22.5.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential as per 18.2
- 22.5.4 do not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- 22.5.4.1 the Customer or Stratus has provided appropriate safeguards in relation to the transfer;
- 22.5.4.2 the data subject has enforceable rights and effective legal remedies;
- 22.5.4.3 Stratus complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
- 22.5.4.4 Stratus complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 22.5.5 assist the Data controller (Customer), in responding to any request from a Data Subject and in ensuring compliance with its obligations under the General Data Protection Regulation with respect to security, breach notifications, impact assessments, audits and consultations with supervisory authorities or regulators;
- 22.5.6 notify the Data controller (Customer) without undue delay on becoming aware of a Personal Data breach;
- 22.5.7 at the written direction of the Data controller (Customer), provide comprehensive information of stored Personal Data and provide evidence it has been deleted or modified to become unidentifiable to the Data controller (Customer) on termination of the Contract unless required by Applicable Law to store the Personal Data; and
- 22.5.8 maintain complete and accurate records and information to demonstrate its compliance with this Clause.
- 22.6 Stratus will not appoint any 3rd party to process personal information under the (data) control of the customer without providing assurances on the security of the 3rd party and without seeking written consent from the Data controller (customer) to do so.
- 22.7 Stratus may revise this Clause, replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme or approved form of processing arrangement (which shall apply when replaced by attachment to this Contract).