

## 1. Introduction

1.1 The terms of these standard EDEN FINANCIAL SOLUTIONS LIMITED terms and conditions of sale shall govern, and be incorporated into, all Order Forms signed by the Customer.

1.2 In these Terms, unless the context otherwise requires, the following words and expressions shall have the following meanings:

**"Acceptable Use Policy"** means EDEN FINANCIAL SOLUTIONS LIMITED's acceptable use policy available on the EDEN FINANCIAL SOLUTIONS LIMITED web-site at [www.edenfs.co.uk](http://www.edenfs.co.uk) and as amended from time to time in accordance with clause 14.1;

**"Affiliate"** means in relation to each party, those persons Controlled by, Controlling or under common Control with such party;

**"Charges"** means the charges payable by the Customer to EDEN FINANCIAL SOLUTIONS LIMITED for the Services, as further described in clause 7.1;

**"EDEN FINANCIAL SOLUTIONS LIMITED"** means EDEN FINANCIAL SOLUTIONS LIMITED registered in England 04315574 whose registered office is at Wellesley House, 204 London Road, Waterlooville, Hampshire, PO7 7AN.

**"EDEN FINANCIAL SOLUTIONS LIMITED Equipment"** means any apparatus or equipment provided by EDEN FINANCIAL SOLUTIONS LIMITED or any third party on behalf of EDEN FINANCIAL SOLUTIONS LIMITED to the Customer to enable the provision of Services;

**"Confirmation Notice"** means the notice given to the Customer by EDEN FINANCIAL SOLUTIONS LIMITED confirming acceptance of the Customer's Order;

**"Control"** means the possession by any person(s) or nominee(s) directly or indirectly of the power to direct or cause the direction of the management of another person and the terms "Controlled" and "Controlling" shall be construed accordingly;

**"Credit Limit"** shall mean the amount notified by EDEN FINANCIAL SOLUTIONS LIMITED to the Customer from time to time. If no credit limit has been notified to the Customer the credit limit shall be deemed to have been set at £500;

**"Customer"** means the entity which has submitted the relevant Order Form to EDEN FINANCIAL SOLUTIONS LIMITED;

**"Customer Equipment"** means any apparatus or equipment belonging to or under the control of the Customer and not forming part of the EDEN FINANCIAL SOLUTIONS LIMITED Equipment (but which may be connected to the EDEN FINANCIAL SOLUTIONS LIMITED Equipment);

**"Initial Term"** means the initial term for the supply of the Services set out in the Order Form or, if no initial term is specified, a period of one calendar year;

**"Network"** means the telecommunications/IP network controlled by EDEN FINANCIAL SOLUTIONS LIMITED or its Affiliate;

**"Order Form"** means an order placed by the Customer for Services, which shall be submitted on EDEN FINANCIAL SOLUTIONS LIMITED's standard form unless otherwise agreed by EDEN FINANCIAL SOLUTIONS LIMITED;

**"Service Contract"** has the meaning set out in clause 3.1;

**"Service Description"** means the description of the particular Service provided by EDEN FINANCIAL SOLUTIONS LIMITED;

**"Service" or "Services"** means each of the services to be supplied to the Customer by EDEN FINANCIAL SOLUTIONS LIMITED under these Terms, as ordered by the Customer pursuant to the relevant Order Form (subject to confirmation by EDEN FINANCIAL SOLUTIONS LIMITED), and described in the relevant Service Description and SLA;

**"Service Level Agreement" or "SLA"** means the document setting out the service levels to which the Services will be provided; and "Terms" means these EDEN FINANCIAL SOLUTIONS LIMITED standard terms and conditions of sale.

1.3 In these Terms, unless the context otherwise requires:

1.3.1 the headings are for convenience only and shall not affect its interpretation;

1.3.2 where appropriate, words denoting the singular shall include the plural and vice-versa and words importing any one gender shall include the other gender; and

1.3.3 reference to any document, including any statute or statutory provision, is a reference to the document at the relevant time, as amended, extended or re-enacted.

1.4 Subject to clause 10.1, in the event of any conflict or inconsistency between any term of a Service Contract and any provisions of these Terms, the terms of the Service Contract shall prevail in respect of those items which can be varied by a Service Contract.

## 2. The Services

2.1 EDEN FINANCIAL SOLUTIONS LIMITED will supply the Customer with the Services in accordance with these Terms and any applicable Service Contract.

2.2 EDEN FINANCIAL SOLUTIONS LIMITED reserves the right to make any changes to these Terms or to a Service Contract (including changes to the Services and SLA) as it deems necessary from time to time in order to reflect:

2.2.1 technical and/or operational matters, provided that such change does not materially affect the applicable Service to the Customer; and/or

2.2.2 changes to applicable law, regulation or codes of conduct.

### **3. Creation of a Service Contract**

3.1 After the Customer has submitted an Order Form EDEN FINANCIAL SOLUTIONS LIMITED will confirm the Customer's request, if EDEN FINANCIAL SOLUTIONS LIMITED is able to supply those Services, by sending the Customer a Confirmation Notice. The Confirmation Notice, together with the applicable Order Form, Service Description, SLA and these Terms shall complete the Service Contract.

3.2 EDEN FINANCIAL SOLUTIONS LIMITED shall supply the Customer with the Services in accordance with each Service Contract.

3.3 EDEN FINANCIAL SOLUTIONS LIMITED warrants to the Customer that the Services will be provided with reasonable care and skill by suitably qualified and experienced staff.

### **4. Customer's obligations**

4.1 The Customer shall as a condition of these Terms and each Service Contract:

4.1.1 not use the Services for any unlawful purposes or to receive or send messages which are offensive, indecent, obscene, menacing, defamatory, or which infringe any intellectual property right (including, without limitation, trade marks, copyright, or rights relating to domain names), nor allow others to do so;

4.1.2 comply with the Acceptable Use Policy;

4.1.3 not knowingly intercept or attempt to intercept any message that passes over the Network;

4.1.4 not knowingly or recklessly send any message or virus through the Network which causes or is likely to cause harm, in any degree, to EDEN FINANCIAL SOLUTIONS LIMITED or its customers, or any of those parties' communication systems;

4.1.5 comply with all applicable legal and regulatory requirements;

4.1.6 inform EDEN FINANCIAL SOLUTIONS LIMITED immediately if any of the passwords or other confidential information that EDEN FINANCIAL SOLUTIONS LIMITED has disclosed to the Customer becomes known to any unauthorised user;

4.1.7 only connect to the Network equipment and/or networks that comply with all relevant legislation, standards and licence requirements;

4.1.8 comply with any reasonable instructions given by EDEN FINANCIAL SOLUTIONS LIMITED from time to time relating to use of the Services;

4.1.9 obtain access to all necessary sites for EDEN FINANCIAL SOLUTIONS LIMITED engineers and authorised personnel at mutually agreeable times;

4.1.10 meet EDEN FINANCIAL SOLUTIONS LIMITED's reasonable requirements about the safety of its personnel whilst on the Customer's premises;

4.1.11 not make any statement, warranty or representation about the Services to any third party;

4.1.12 not sell or assign any number without EDEN FINANCIAL SOLUTIONS LIMITED's prior permission;

4.1.13 ensure that its customers or any third party that it allows to use the Services comply with the terms of the relevant Service Contract.

4.2 The Customer indemnifies EDEN FINANCIAL SOLUTIONS LIMITED against all third party claims and any losses, liabilities, costs (including legal costs) and expenses which EDEN FINANCIAL SOLUTIONS LIMITED may incur as a result of a breach of any Service Contract by the Customer provided that:

4.2.1 EDEN FINANCIAL SOLUTIONS LIMITED promptly notifies the Customer of such claim;

4.2.2 the Customer has conduct of such claim;

4.2.3 EDEN FINANCIAL SOLUTIONS LIMITED gives the Customer (at the Customer's expense) reasonable assistance in defending such claim; and

4.2.4 this indemnity shall not apply to the extent that any claim or part of a claim directly results from the acts or omissions of EDEN FINANCIAL SOLUTIONS LIMITED or its Affiliates.

### **5. Customer Equipment**

5.1 If EDEN FINANCIAL SOLUTIONS LIMITED hosts Customer Equipment on EDEN FINANCIAL SOLUTIONS LIMITED's premises, the Customer agrees that:

5.1.1 EDEN FINANCIAL SOLUTIONS LIMITED has the absolute right to change the location of the Customer's Equipment within EDEN FINANCIAL SOLUTIONS LIMITED premises on reasonable prior notice and the Customer's Equipment will be housed in such part of EDEN FINANCIAL SOLUTIONS LIMITED's buildings as EDEN FINANCIAL SOLUTIONS LIMITED may designate from time to time;

5.1.2 the Customer will not maintain or seek to maintain that a relationship of landlord and tenant is created;

5.1.3 the Service constitutes a non-exclusive licence to keep the Customer's Equipment on EDEN FINANCIAL SOLUTIONS LIMITED premises and on termination of the relevant Service Contract the Customer will remove the Customer Equipment from EDEN FINANCIAL SOLUTIONS LIMITED premises immediately, and if the Customer does not do so within 14 days of the date of termination, EDEN FINANCIAL SOLUTIONS LIMITED may remove such Customer Equipment at the Customer's expense;

5.1.4 the Customer will not disclose to any unauthorised person any user names, passwords or security certificates and may not retain any key or pass allowing the Customer access to EDEN FINANCIAL SOLUTIONS LIMITED premises;

5.1.5 the Customer will maintain adequate all risks insurance for Customer Equipment on EDEN FINANCIAL SOLUTIONS LIMITED premises;

5.1.6 the Customer will ensure that any persons entering EDEN FINANCIAL SOLUTIONS LIMITED premises on the Customer's behalf:

5.1.6.1 do not injure or damage any person or property;

5.1.6.2 carry identification;

5.1.6.3 do not interfere with any other equipment on EDEN FINANCIAL SOLUTIONS LIMITED premises;  
5.1.6.4 give EDEN FINANCIAL SOLUTIONS LIMITED one working day's notice of their entry; and  
5.1.6.5 comply with any health and safety measures that EDEN FINANCIAL SOLUTIONS LIMITED advises to the Customer from time to time.  
5.1.7 Where the Customer does not pay any invoice due, EDEN FINANCIAL SOLUTIONS LIMITED shall have the right to a general lien on all the Customer Equipment on EDEN FINANCIAL SOLUTIONS LIMITED premises. EDEN FINANCIAL SOLUTIONS LIMITED shall be entitled on written notice (or immediately if clause 11.2 applies) to dispose of such Customer Equipment as it thinks fit and to apply any proceeds of sale first to the costs of such sale and second towards the payment of such sums due. In conducting any sale, EDEN FINANCIAL SOLUTIONS LIMITED shall act in good faith, but shall owe the Customer no other duty.

## **6. EDEN FINANCIAL SOLUTIONS LIMITED Equipment**

6.1 If a Services Contract requires EDEN FINANCIAL SOLUTIONS LIMITED to install EDEN FINANCIAL SOLUTIONS LIMITED Equipment at the Customer's premises to connect the Customer to the Network and enable EDEN FINANCIAL SOLUTIONS LIMITED to provide the Services, the Customer shall:  
6.1.1 procure that EDEN FINANCIAL SOLUTIONS LIMITED is granted the authority to install equipment and carry out construction or other works to provide the Customer with the Services;  
6.1.2 provide appropriate, safe and secure, equipment space, environment, ducting and electrical power for the installation and maintenance of EDEN FINANCIAL SOLUTIONS LIMITED Equipment at the Customer's premises without charge or cost to EDEN FINANCIAL SOLUTIONS LIMITED;  
6.1.3 ensure that the EDEN FINANCIAL SOLUTIONS LIMITED Equipment is not interfered with by any person;  
6.1.4 comply with all reasonable instructions given by EDEN FINANCIAL SOLUTIONS LIMITED from time to time for the use of the EDEN FINANCIAL SOLUTIONS LIMITED Equipment;  
6.1.5 only use the EDEN FINANCIAL SOLUTIONS LIMITED Equipment for the purpose of receiving the Services;  
6.1.6 not allow the EDEN FINANCIAL SOLUTIONS LIMITED Equipment to be repaired, maintained, upgraded or tested other than by an authorised representative of EDEN FINANCIAL SOLUTIONS LIMITED;  
6.1.7 not damage, add, modify or in any way interfere with the EDEN FINANCIAL SOLUTIONS LIMITED Equipment or the performance of the EDEN FINANCIAL SOLUTIONS LIMITED Equipment;  
6.1.8 not sell, lease, charge or otherwise deal with the EDEN FINANCIAL SOLUTIONS LIMITED Equipment;  
6.1.9 afford EDEN FINANCIAL SOLUTIONS LIMITED access to the premises where the Services are provided to the Customer at reasonable times on reasonable notice.  
6.2 EDEN FINANCIAL SOLUTIONS LIMITED may modify, substitute, renew or add to the EDEN FINANCIAL SOLUTIONS LIMITED Equipment from time to time at its absolute discretion.  
6.3 The Customer agrees that title in any EDEN FINANCIAL SOLUTIONS LIMITED Equipment shall remain with EDEN FINANCIAL SOLUTIONS LIMITED even whilst in or on the Customer's premises. On termination of the relevant Service Contract EDEN FINANCIAL SOLUTIONS LIMITED representatives shall be entitled to have immediate access to the Customer's premises to remove the EDEN FINANCIAL SOLUTIONS LIMITED Equipment and shall be entitled to add costs of doing so to the Charges due to EDEN FINANCIAL SOLUTIONS LIMITED from the Customer at such time.  
6.4 EDEN FINANCIAL SOLUTIONS LIMITED shall use reasonable endeavours to comply with the Customer's requests in respect of the location of the EDEN FINANCIAL SOLUTIONS LIMITED Equipment.

## **7. Payment**

7.1 The Customer can pay a fee for the provision of the Services as set out on the Order Form or we can be paid by commission.  
7.2 The charges will be invoiced by EDEN FINANCIAL SOLUTIONS LIMITED in accordance with the Order Form and shall be payable by the Customer within 14 days of the date of such invoice.  
7.3 Should the Customer need to raise a purchase order in regard to an Order Form for internal budget reasons or require a payment reference number to be provided on all invoices, the Customer shall detail the required reference number on the Order Form. In the event that no such reference number is provided at the outset, no such reference number may be required at a later date by the Customer and for the avoidance of doubt, the absence of such a reference number on invoices submitted shall not justify the Customer in withholding payment. No purchase orders raised by the Customer with regard to an Order Form should be forwarded to EDEN FINANCIAL SOLUTIONS LIMITED.  
7.4 Payment of all sums due under this Agreement shall be made by the Customer in full without any set-off, deductions or withholding, with the sole exception of any service credits previously agreed in writing by EDEN FINANCIAL SOLUTIONS LIMITED.  
7.5 EDEN FINANCIAL SOLUTIONS LIMITED reserves the right to charge daily interest on all outstanding amounts until payment is received in full at the rate equal to 2 percent above Barclays Bank plc base lending rate as current from time to time.  
7.6 All sums due to EDEN FINANCIAL SOLUTIONS LIMITED under this Agreement are exclusive of Value Added Tax and any other applicable taxes which may from time to time be introduced, which shall be charged thereon in accordance with the relevant regulations in force at the time of making the taxable supply and shall be paid by the Customer.  
7.7 The Customer acknowledges that the installation Charges set out within any and all Schedules

attached hereto or such additional Schedules that come into force subsequent to the date of this Agreement but by direct reference to it are subject to survey and that there may be a slight variation to the final Charges for installation which the Customer agrees to pay under this Agreement.

7.8 During the Initial Term, EDEN FINANCIAL SOLUTIONS LIMITED reserves the right to increase the charges in line with any increases in core costs incurred since the Commencement Date. Such increases will be subject to 30 days written notice and limited to the actual increases in core costs on a pound for pound basis.

7.9 Subsequent to the expiry of the Term, EDEN FINANCIAL SOLUTIONS LIMITED reserves the right to increase the charges in line with any increases in core costs incurred since the Commencement Date. Such increases will be subject to 30 days written notice and limited to the actual increases in core costs on a pound for pound basis.

## **8. Intellectual property rights**

8.1 Except as expressly stated in a Service Contract the Customer shall not acquire any right, title or interest in or to the intellectual property rights of EDEN FINANCIAL SOLUTIONS LIMITED or its licensors.

8.2 For the avoidance of doubt, nothing in clause 8.1 affects the intellectual property rights that the Customer may have in any content delivered or received using the Services.

8.3 The Customer acknowledges such title, interest and rights and the Customer shall not take any action to jeopardise, limit or interfere in any manner with EDEN FINANCIAL SOLUTIONS LIMITED's (or any third party suppliers') title, interests or rights with respect to the Services, including but not limited to, using EDEN FINANCIAL SOLUTIONS LIMITED's trade name or trade marks.

8.4 If EDEN FINANCIAL SOLUTIONS LIMITED supplies software to the Customer to enable it to use the Services, EDEN FINANCIAL SOLUTIONS LIMITED will for the term of each relevant Service Contract grant the Customer a non-exclusive, non-transferable licence to use the software for that purpose in the United Kingdom in accordance with any conditions that EDEN FINANCIAL SOLUTIONS LIMITED advises to the Customer from time to time.

8.5 Except as permitted by applicable law as expressly permitted under these Terms, the Customer must not, without EDEN FINANCIAL SOLUTIONS LIMITED's prior written consent, copy, de-compile or modify the software nor copy any manuals or documentation provided with the Services.

8.7 If EDEN FINANCIAL SOLUTIONS LIMITED supplies software to the Customer it warrants to use all reasonable endeavours to ensure that:

8.7.1 the software and the media on which the software is delivered will be free from viruses and other malicious code; and

8.7.2 the media on which the software is delivered will be free from defects.

## **9. Liability**

9.1 Nothing in these Terms shall exclude or limit:

9.1.1 either Party's liability for death, personal injury or damage to property arising from its own negligence or that of its employees, agent's or sub-contractor's;

9.1.2 any breach of obligations implied by the operation of section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982;

9.1.3 either Party's liability to the other for fraud or fraudulent misrepresentation, and this clause 9.1 takes precedence over all other clauses in these Terms or any Service Contract.

9.2 Subject to clauses 9.1 and 9.3, EDEN FINANCIAL SOLUTIONS LIMITED's liability to the Customer whether in contract, tort (including negligence) or otherwise, arising out of, or in connection with a particular Service Contract shall be limited in aggregate to an amount equal to 90% of the Charges payable by the Customer under that Service Contract in the twelve month period immediately prior to the month in which the event giving rise to such claim took place or if twelve months has not elapsed then an amount equal to the Charges payable in relation to the particular Service Contract for the first twelve months of the Initial Term excluding installation charges.

9.3 Subject to clause 9.1, EDEN FINANCIAL SOLUTIONS LIMITED shall not be liable to the Customer for any:

9.3.1 loss of profits, loss of anticipated savings, loss of business, loss of opportunity, loss of revenue, loss of time, loss of goodwill or injury to reputation, or loss of or harm to data (including corruption to and reinstatement of any data), punitive damages, or losses suffered by third parties, regardless of whether such loss is direct, indirect, special or consequential; or

9.3.2 indirect, consequential or special loss (including that already excluded by clause 9.3.1) whether or not EDEN FINANCIAL SOLUTIONS LIMITED knew of the circumstances giving rise to such loss, arising out of, or in connection with these Terms or any Service Contract.

9.4 EDEN FINANCIAL SOLUTIONS LIMITED shall not be liable for any damages whatsoever to property at the Customer's premises resulting from the installation, repair or removal of equipment carried out by EDEN FINANCIAL SOLUTIONS LIMITED or by its contractors unless such damage is caused by EDEN FINANCIAL SOLUTIONS LIMITED's wilful misconduct or negligence and subject always to the limitations in clauses 9.2 and 9.3.

9.5 EDEN FINANCIAL SOLUTIONS LIMITED shall not be liable to the Customer for any event beyond EDEN FINANCIAL SOLUTIONS LIMITED's reasonable control, including but not limited to default or failure of a third party not within EDEN FINANCIAL SOLUTIONS LIMITED's control (including another telecommunications operator, equipment supplier, installer or maintainer), government action, failure in the supply of a third party network or other event of force majeure.

9.6 The Customer's sole and exclusive remedy in respect of any failure by EDEN FINANCIAL SOLUTIONS LIMITED to meet the service levels set out in the SLA shall be the compensation set out in the SLA.

9.7 Except as expressly set out in these Terms or any applicable Service Contract or SLA, all representations, warranties, terms and undertakings, express or implied by statute, common law or otherwise (including those relating to quality and fitness for purpose) are expressly excluded to the extent permitted by law.

## **10. Term and termination**

10.1 Each Service Contract shall start from the date the Service is made available and continue for the Initial Term, after which either party may terminate a Service Contract by giving ninety (30) days' written notice to the other.

10.2 In addition to EDEN FINANCIAL SOLUTIONS LIMITED's other rights, EDEN FINANCIAL SOLUTIONS LIMITED may terminate any Service Contract and/or suspend the provision of any Service under a Service Contract:

10.2.1 immediately following the expiry of 14 days' written notice from EDEN FINANCIAL SOLUTIONS LIMITED to the Customer for non-payment of any charges and payment has not been made following such notice; or

10.2.2 immediately in writing if the Customer materially breaches these Terms, any Service Contract or any other agreement the Customer has with EDEN FINANCIAL SOLUTIONS LIMITED (or if such breach is capable of being remedied, after expiry of written notice requiring such breach to be remedied within 14 days and the Customer has failed to remedy such breach); or

10.2.3 immediately if bankruptcy or insolvency proceedings are brought against the Customer, a receiver or administrator is appointed over any of the Customer's assets or the Customer goes into liquidation or enters into a voluntary arrangement with its creditors other than for the purposes of reorganisation (or any similar event in its country of incorporation takes place); or

10.2.4 as soon as required if EDEN FINANCIAL SOLUTIONS LIMITED is obliged to by a decision or direction of any governmental body or regulatory authority.

10.3 The Customer shall be entitled to immediately terminate any Service Contract by notice to EDEN FINANCIAL SOLUTIONS LIMITED if:

10.3.1 EDEN FINANCIAL SOLUTIONS LIMITED commits a material breach of a Service Contract and fails to remedy that breach within 14 days of receiving written notice from the Customer requiring its remedy;

10.4 Upon termination of a Service Contract, all Charges incurred by the Customer for the use of the Services (up to the date of termination shall be due and payable in full and on demand and the Customer shall have no right to withhold, deduct or set off any such amounts.

10.5 Upon termination of a Service Contract for whatever reason the Customer shall immediately stop using the Services prescribed in such Service Contract and the Customer's right to use such Services shall immediately terminate.

10.6 Termination or expiry of a Service Contract shall not affect any accrued rights or obligations or those intended to be of a continuing nature or to come into force upon termination or expiry.

10.7 Where EDEN FINANCIAL SOLUTIONS LIMITED suspends for Customer breach and subsequently reconnects Services the Customer may be liable for a reasonable reconnection fee which shall be notified to the Customer in advance.

10.8 If the Customer cancels an order, or requests that an order already placed is significantly modified (e.g. changes in address; Service type; point of presence or presentation), prior to the Customer Promise Date (CPD), as defined in the relevant Service Contract, then notwithstanding EDEN FINANCIAL SOLUTIONS LIMITED's other rights pursuant to the Service Contract, the Customer shall pay all costs incurred by EDEN FINANCIAL SOLUTIONS LIMITED as a result of such cancellation or modification, excluding indirect, incidental or consequential loss, loss of profits. The amount payable shall be calculated by reference to the number of days prior to the CPD that EDEN FINANCIAL SOLUTIONS LIMITED receives the cancellation or modification request from the Customer.

Where an installation charge is not payable or are discounted for a particular Service Contract, EDEN FINANCIAL SOLUTIONS LIMITED may charge a cancellation charge by applying the percentages above to its then current standard Installation Charges (as notified to the Customer). Additionally EDEN FINANCIAL SOLUTIONS LIMITED may charge the Customer for all costs which it has incurred in relation to provision of the Services (e.g. costs associated with network or infrastructure builds or obtaining wayleaves) on and prior to the date upon which it receives the early cancellation request from the Customer.

10.9 If the Customer cancels a Service without cause after the CPD and prior to the end of the Initial Term, then all Charges that would have been payable until the end of the Initial Term (together with any relevant notice period) shall immediately become due and payable.

## **11. Data Protection**

11.1 Subject to clause 11.2 below, EDEN FINANCIAL SOLUTIONS LIMITED and the Customer each agree to comply with their respective obligations under applicable data protection legislation and maintain all relevant registrations, including (in relation to the Customer) any such registrations and consents as the Customer should obtain and maintain to enable EDEN FINANCIAL SOLUTIONS LIMITED to process personal data in connection with the performance by EDEN FINANCIAL SOLUTIONS LIMITED of its obligations under each Service Contract.

11.2 The Customer acknowledges that EDEN FINANCIAL SOLUTIONS LIMITED may, in the course of

performing its obligations under each Service Contract, process "personal data" (as defined in Directive 95/46/EC on the protection of individuals with regard to the processing of personal data (the "DPD") in accordance with the EDEN FINANCIAL SOLUTIONS LIMITED Privacy Policy (available at [http://www.Eden.Financial.Solutions.Limited.net/info/terms\\_of\\_use\\_privacy\\_statement](http://www.Eden.Financial.Solutions.Limited.net/info/terms_of_use_privacy_statement)). Insofar as such personal data is obtained from the Customer, the Customer consents, and undertakes to procure that any relevant "data subjects" (as defined in the DPD) consent to such processing by EDEN FINANCIAL SOLUTIONS LIMITED, including, without limitation, to the transfer of such personal data for processing outside the European Union.

11.3 This clause applies to personal data only. Subject to and in accordance with relevant data protection legislation the Customer consents to allow EDEN FINANCIAL SOLUTIONS LIMITED to collect data about the Customer's use of the Services and any other personal data provided by the Customer to EDEN FINANCIAL SOLUTIONS LIMITED and to provide this data to:

11.3.1 EDEN FINANCIAL SOLUTIONS LIMITED's Affiliates for the purposes of marketing EDEN FINANCIAL SOLUTIONS LIMITED's telecommunications services or other services or for any purpose connected with the performance of these Terms;

11.3.2 any governmental or regulatory body for the purpose of EDEN FINANCIAL SOLUTIONS LIMITED's compliance with applicable laws and regulations or in order to comply with instructions placed upon EDEN FINANCIAL SOLUTIONS LIMITED by such governmental or regulatory body; and

11.3.3 third parties under contract to EDEN FINANCIAL SOLUTIONS LIMITED who assist EDEN FINANCIAL SOLUTIONS LIMITED (as an agent of EDEN FINANCIAL SOLUTIONS LIMITED) in providing the Services or marketing other EDEN FINANCIAL SOLUTIONS LIMITED services. For the avoidance of doubt, EDEN FINANCIAL SOLUTIONS LIMITED will not sell personal data to such third parties.

11.4 EDEN FINANCIAL SOLUTIONS LIMITED will provide the Customer, at its request, with details of all such personal data as is held about the Customer and will modify any information held that the Customer notifies EDEN FINANCIAL SOLUTIONS LIMITED is incorrect.

## **12. Confidentiality**

12.1 In this clause 12 "Confidential Information" means all confidential information disclosed (whether in writing, orally or by another means and whether directly or indirectly) by a party (the "Disclosing Party") to the other party (the "Receiving Party") whether before or after the date of each Service Contract including, but not limited to, information relating to the Disclosing Party's products, operations, processes, plans or intentions, product information, know-how, design rights, trade secrets, market opportunities and business affairs. The existence of, and the terms contained in, each Service Contract shall be regarded as Confidential Information.

12.2 During the term of each Service Contract and after termination or expiry of each Service Contract for any reason the Receiving Party shall:

12.2.1 not use Confidential Information for a purpose other than the performance of its obligations under each Service Contract Service Contract;

12.2.2 not disclose Confidential Information to any person except with the prior written consent of the Disclosing Party or in accordance with clauses 12.3 and 12.4;

12.2.3 make every effort to prevent the unauthorised disclosure of Confidential Information.

12.3 During the term of each Service Contract the Receiving Party may disclose Confidential Information to any of its directors, other officers, employees and sub-contractors (a "Recipient") to the extent that disclosure is reasonably necessary for the purposes of each Service Contract.

12.4 Before disclosure of Confidential Information to a Recipient, the Receiving Party shall ensure that such Recipient is made aware of and complies with the Receiving Party's obligations of confidentiality under these Terms as if the Recipient was a party to the relevant Service Contract.

12.5 Clauses 12.2 to 12.4 do not apply to Confidential Information which:

12.5.1 is at the date of the Service Contract or becomes at any time after that date publicly known other than by the Receiving Party's or Recipient's breach of these Terms; or

12.5.2 can be shown by the Receiving Party to the Disclosing Party's reasonable satisfaction to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party; or

12.5.3 is or becomes available to the Receiving Party otherwise than pursuant to the relevant Service Contract and free of any restrictions as to its use or disclosure; or

12.5.4 is required to be disclosed by law or regulation.

## **13. General**

13.1 EDEN FINANCIAL SOLUTIONS LIMITED may revise its Acceptable Use Policy provided that such amendments:

13.1.1 reflect changes in applicable law and regulation and/or are in line with commonly-agreed good industry practice and/or prohibit new or previously unexploited forms of abuse of the Services; and

13.1.2 do not materially vary or impact the quality or performance of the Services.

13.2 Each Service Contract, together with the documents referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, cancels and nullifies any previous agreement between the parties relating to such matters notwithstanding the terms of the previous agreement or arrangement expressed to survive termination.

13.3 Each of the parties acknowledges and agrees that in entering into each Service Contract it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) other than as expressly set out in these Terms and/or the relevant Service Contract. The only remedy available to either party in respect of such statement,

representation, warranty or understanding shall be for breach of contract under these Terms.

13.4 If any provision of these Terms or a Service Contract (whether in part or in whole) is held by a court of competent jurisdiction to be illegal, invalid or unenforceable the remaining provisions of these Terms or a Service Contract shall remain in full force and effect.

13.5 Any waiver of any breach of these Terms or a Service Contract, or any concession or extra time EDEN FINANCIAL SOLUTIONS LIMITED may allow the Customer is limited to the specific circumstances in which it was given. It does not affect EDEN FINANCIAL SOLUTIONS LIMITED's rights under these Terms in any other way.

13.6 No variation of these Terms or a Service Contract, or any of the documents referred to in it, shall be valid unless it is in writing and signed by or on behalf of each of the parties. These Terms are personal to the Customer and the Customer cannot transfer or try to transfer these Terms or any part of them to anyone else.

13.7 During the term of each Service Contract, and for six months after its termination, the Customer will not solicit or endeavour to entice away from EDEN FINANCIAL SOLUTIONS LIMITED any of its employees.

13.8 Where EDEN FINANCIAL SOLUTIONS LIMITED provides numbers to the Customer, EDEN FINANCIAL SOLUTIONS LIMITED may, for operational or other reasons, change the numbers allocated to the Customer in connection with the Services but EDEN FINANCIAL SOLUTIONS LIMITED will not do so unreasonably.

13.9 Each party promises the other that the person signing on its behalf is authorised to do so.

13.10 These Terms, and each Service Contract, shall be governed by English law. Both parties submit to the exclusive jurisdiction of the Courts of England provided that each party may commence proceedings in any other jurisdiction in which the other is or becomes incorporated.

13.11 Except as specifically provided in these Terms with respect to EDEN FINANCIAL SOLUTIONS LIMITED's Affiliates, the Customer and EDEN FINANCIAL SOLUTIONS LIMITED do not intend that any term of these Terms should be enforceable by anyone else under the Contracts (Rights of Third Parties) Act 1999.

13.12 EDEN FINANCIAL SOLUTIONS LIMITED's address for the receipt of notices is its registered office. The Customer's address for the receipt of notices is as set out on the Order Form or the registered office where the Customer is a registered company.

13.13 Any notice given in connection with these Terms or a Service Contract, shall be served in writing by hand, normal first class post, fax or electronic transmission. Any notice sent by:

13.13.1 hand shall be deemed to have been received immediately upon delivery;

13.13.2 post shall be deemed (in the absence of evidence of earlier receipt) to have been received forty eight (48) hours after date of posting;

13.13.3 fax or electronic transmission shall be deemed to have been validly delivered on the Working Day (or on the next Working Day if sent after 5.00pm) that it was transmitted, provided that no error message indicating failure to deliver has been received by the sender.

13.15 The Customer consents to EDEN FINANCIAL SOLUTIONS LIMITED stating in publicity that Customer is a customer of EDEN FINANCIAL SOLUTIONS LIMITED. Any such publicity will not contain the value or any material detail of the nature of the services without the Customer's written approval.

13.16 The Customer may not assign, or otherwise transfer, a Service Contract or any rights or obligations hereunder without EDEN FINANCIAL SOLUTIONS LIMITED's prior written consent. EDEN FINANCIAL SOLUTIONS LIMITED may assign, or otherwise transfer, a Service Contract or any rights or obligations there under to an Affiliate of equivalent financial standing.

13.17 EDEN FINANCIAL SOLUTIONS LIMITED may subcontract to any third party any or all of its performance obligations (including without limitation maintenance) under a Service Contract without the prior consent of the Customer, provided that EDEN FINANCIAL SOLUTIONS LIMITED will remain obligated for such performance in accordance with the terms of the Service Contract.

13.18 Neither party grants the other the right to use its trade marks, trade names, or other designations in any promotion or publication.

13.19 The rights and remedies provided by these Terms and each Service Contract are cumulative and (unless otherwise provided in these Terms) are not exclusive of any rights or remedies provided at law or in equity.