

SITE-SHARING LICENCES GENERAL CONDITIONS ("General Conditions")
25.10.2009 (web based for Non-mobile Operator Accounts) Arqiva Limited Portfolio

These General Conditions are intended for business-to-business transactions only and are deemed incorporated by reference into individual Site Sharing Licences issued by Arqiva to the Customer. In the event of a conflict between a General Condition and a Special Condition contained in a Site Sharing Licence relating to the same subject matter, then the General Condition shall be modified and/or replaced by the Special Condition (as appropriate), for the purpose of interpreting that Site Sharing Licence and these General Conditions.

1. DEFINITIONS & INTERPRETATIONS

Terms and phrases set out in these General Conditions shall have meanings set out in the glossary in Appendix 1.

2. TERM

The Term of a Site Sharing Licence can be lawfully ended prior to its contracted expiry date pursuant to early termination rights exercisable by Arqiva and the Customer under the provisions contained in these General Conditions. Where early termination rights are exercised, the provisions contained in General Condition 4.2 (*Minimum Period*) shall apply. Any early termination rights by either party will be exercised by service of a Termination Notice in the format set out in Appendix 2 and otherwise in accordance with the relevant provisions contained in General Condition 12 (*Variation and/or Termination*) and 17

(*Notices*).

3. CHARGES

3.1 The Charges for the Customer's use of a Station shall be those described in the relevant Site Sharing Licence, reviewable and adjustable in accordance with the provisions contained in these General Conditions or any Special Conditions set out in the Site Sharing Licence.

3.2 For the duration of the Term the Customer will promptly pay to Arqiva the Charges payable in respect of each Site Sharing Licence on or before the Due Date, (including any Interest for late payment) and including any increase in the Charges following any review of the Charges pursuant to the provisions of General Condition 4 (*Review of the Charges & Minimum Period*).

4. REVIEW OF THE CHARGES & MINIMUM PERIOD

4.1 Review of the Charges

4.1.1 Arqiva will be entitled to review the Charges, but in the case of review other than in consequence of an increase in the amount of the Customer's Equipment or any other enhancement or addition to a Station required by the Customer, such reviews will consist of:

- (i) an annual upward only review of the Charges on and effective from the Review Date immediately following the Effective Commencement Date and on and effective from every subsequent anniversary of that Review Date, increasing such Charges by a percentage calculated as being the sum of the percentage increase in RPI over the preceding 12 month period ending in the month that is the fourth month prior to the month in which the relevant Review Date occurs (or if there is no increase such percentage to be fixed at zero) plus 2 per cent; and
- (ii) subject in each case to Arqiva giving not less than three months prior written notice, an upward review of the then current annually indexed Charges to an amount which Arqiva in its discretion determines as representing the current value of site sharing facilities at the relevant Station for the Permitted Use of the Customer's Equipment, the first of such upward reviews to take place no earlier than the next Review

Date immediately following the end of the Minimum Period and thereafter at any time provided such subsequent reviews do not occur more often than at annual intervals.

4.1.2 Arqiva shall issue a confirmation notice to the Customer in accordance with General Condition 17 (*"Notices"*), confirming the revised Charges following any review carried out in accordance with General Conditions 4.1.1 (i) or (ii) and 5.2 (*"Additional Fees- Landlord Supplements"*), such confirmation notice shall be deemed a lawfully recorded variation for the purposes of General Condition 12.10 (*"Recording Variations"*).

4.2 Minimum Period

4.2.1 In consideration of concessionary provisions contained in General Condition 4.1 (*Review of the Charges*) and General Condition 5.2 (*Additional Fees - Landlord Supplements*), where a Site Sharing Licence records a Minimum Period, the Charges for that Station shall be calculated as due for the full period of the Minimum Period, but are otherwise payable in annual (or other agreed periodic) instalments on the Due Date throughout the Minimum Period subject to any increases by RPI in accordance with General Condition 4.1.1 (i).

4.2.2 Not Used.

4.2.3 If, prior to the end of the Minimum Period:

- (i) the Customer ceases its requirement for a Station pursuant to General Condition 12.3 (*Without cause - individual Site Sharing Licences*); or
 - (ii) a Site Sharing Licence is otherwise terminated by Arqiva for cause pursuant to General Conditions 12.1(*Material Breach or Insolvency*) or 12.8 (*Termination of a Site Sharing Licence by Arqiva for cause*); or
 - (iii) the Customer wishes to vary Customer's Equipment recorded in a Site Sharing Licence 12.4 (*Variations*);
- then provided a Termination Notice has been served by the Customer or Arqiva (as appropriate) in relation to (i) or (ii) above, or a variation request has been submitted and a variation implementation date agreed in relation to (iii) above, the rights granted and other obligations in respect of that Station and the relevant Site Sharing Licence can be terminated or varied as required, save that such termination (or variation where it operates to reduce the Charges) shall be subject to the Customer's payment of an Additional Fee representing liquidated damages for early termination and/or variation, due as a debt to Arqiva and calculated as being the remainder of the unpaid Charges associated with the termination and/or variation for the balance of the unexpired Minimum Period, subject to adjustment in accordance with the provisions contained in General Condition 4.2.4, such adjusted payment to be due and payable co-incident with the date of expiry of the relevant Termination Notice, or date the variation is implemented.

4.2.4 The calculation of the Additional Fee referred to in General Condition 4.2.3, shall include any review of the Charges that has taken place under General Condition 4.1 (*Review of the Charges*) prior to the expiry of the relevant Termination Notice or where applicable the variation implementation date, but shall otherwise be the net present value ("NPV") of the unpaid annual instalments of the Charges that would have been payable for the balance of the unexpired Minimum Period, discounted at the rate of 8% per annum.

4.2.5 Save as provided in General Condition 4.2.3, the Customer will not be entitled to exercise its rights of termination under General Conditions 12.3 (*Without cause - individual Site Sharing Licences*), or to seek to reduce the Charges at a Station by removal of any Customer's Equipment from that Station under General Condition 12.4 (*Variations*), until after the end of any Minimum Period referred to in the relevant Site Sharing Licence.

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4.2.6 If the Customer's rights to use a Station under an individual Site Sharing Licence are terminated by a Termination Notice issued by either Arqiva or the Customer pursuant to General Condition 12.2 (*In consequence of Force Majeure or consent*) then, whether or not any Minimum Period referred to in a Site Sharing Licence remains unexpired the Customer will have no further obligation to pay any unpaid Charges for the balance of the unexpired Term or any unexpired Minimum Period.

5. ADDITIONAL FEES

5.1 Payment of Additional Fees

In addition to the Charges and the Additional Fees payable under this General Condition 5, the Customer will promptly pay any Additional Fees payable under a Site Sharing Licence (including Interest for late payment and including but not limited to any Additional Fees due pursuant to General Conditions 3 (*Charges*), 4.2 (*Minimum Period*), 5.6 (*Additional Fees - Access and Permit Fees*) 7.4 (*Arqiva owned Equipment Housing*), 7.6.1(*Working at Heights*), 7.6.2 (*Changes to Customer's Equipment*), 7.6.3 (*Alterations to a Station or other Arqiva property*), 7.6.8 (*Town and Country Planning*), 7.7.8 (*Compliance and Behaviour Indemnity*), 7.7.10 (*Negotiating with Utilities Providers-Wayleave Charges*) and 12.11 (*Removal of Customer's Equipment*)), such payments to be made on the applicable Due Date.

5.2 Additional Fees - Landlord Supplements

5.2.1 The Customer will pay to Arqiva any Landlord Supplements set out in the Site Sharing Licence including any reviews described therein, or as otherwise reviewed in accordance with this General Condition 5.2.

5.2.2 Where any payments of Landlord Supplements set out in a Site Sharing Licence are expressed as fixed sums rather than a percentage of the Charges, then any such fixed sums shall (unless there is a contrary review provision set out in a Site Sharing Licence) be upwardly reviewed and revised on each Review Date during the Term by a percentage calculated as being the sum of the percentage increase in RPI over the preceding 12 month period ending in the month that is the fourth month prior to the month in which the relevant Review Date occurs (or if there is no increase such percentage to be fixed at zero) plus 2 per cent.

5.2.3 Any payments of Landlord Supplements set out in a Site Sharing Licence that are expressed as a percentage of the annual Charges shall (unless there is a contrary review provision set out in a Site Sharing Licence) be increased co-incident with any increase in the Charges.

5.2.4 The Landlord Supplements may in Arqiva's discretion be reviewed other than in accordance with the provisions contained in General Conditions 5.2.2 and 5.2.3 in order to match any discrepancy between the Landlord's Supplements and the Landlord Revenue Share attributed to the rights granted to the Customer under a Site Sharing Licence, subject in each case to Arqiva giving not less than three months prior notice to the Customer of such alternative review and for the first of such alternative reviews to take place no earlier than the next Review Date immediately following the end of the Minimum Period and thereafter at any time provided such subsequent alternative reviews do not occur more often than at annual intervals.

5.2.5 The Customer will also pay to Arqiva as an additional Charge the expense of any additional land acquired or rented by Arqiva adjacent to a Station to accommodate the Customer's Equipment.

5.2.6 Although payments of Landlord Supplements is intended to be an Additional Fee paid by the Customer to re-imburse any additional Landlord Revenue Share imposed on Arqiva in consequence of the rights granted to the Customer under a Site Sharing Licence, where any Arqiva or any

Arqiva Group Company purchases the freehold or other reversionary interest in a leased Station after the Effective Commencement Date, Arqiva may nevertheless continue to recover Landlord Supplements from the Customer in respect of that Station for the remainder of the Term.

5.2.7 The Customer acknowledges and agrees that notwithstanding the provisions of General Conditions 5.2.1 and 5.2.2 all Landlord Supplements are Additional Fees and are not Charges either for the purpose of any reviews of any Site Sharing Ratecard or for the purpose of calculating Landlord Supplements (expressed either as a percentage of net or gross site sharing Charges).

5.3 Additional Fees – Electricity Connection and Supply

5.3.1 Unless a Site Sharing Licence specifies that the Customer will arrange its own electricity supply, Arqiva, on behalf of the Customer, will arrange the installation, connection and supply of electricity to the Customer's Equipment and the Customer will re-imburse Arqiva's Additional Fees for procuring the necessary installation and connection works to enable any such supply for the Customer's Equipment, such Additional Fees to be calculated in accordance with the Arqiva schedule of rates agreed with the Customer for such works, or where the Customer has entered into a Electricity Connection and Supply Agreement calculated in accordance with provisions of that agreement.

5.3.2 The Customer will not arrange any installation, connection or supply of electricity to the Customer's Equipment without Arqiva's consent and the Customer acknowledges that Arqiva may withhold such consent if Arqiva intends to arrange the installation, connection or supply of electricity to the Customer's Equipment pursuant to General Condition 5.3.1 above.

5.3.3 Additional provisions set out in General Condition 7.7.10 (*Negotiating with Utilities Providers - Wayleave Charges*) shall apply to any requirement by the Customer for the installation of Utilities Providers electricity supply equipment on a Station.

5.4 Additional Fees - Electricity Supply Charges

5.4.1 Arqiva's electricity supply charges will be fixed at /or calculated in accordance with either:

- (i) the provisions contained in a Site Sharing Licence; or
- (ii) any separate Electricity Connection and Supply Agreement (which in this context will override any tariff provisions set out in a Site Sharing Licence in relation to any Stations supplied with electricity under any Electricity Connection and Supply Agreement between Arqiva and the Customer).

5.4.2 Unless otherwise provided in any separate Electricity Connection and Supply Agreement, Arqiva will be entitled to review electricity supply charges at any time during the Term if:

- (i) the Customer's consumption, or the electricity Utilities Providers tariff, changes;
- (ii) any special taxes or levies are applied to the relevant electricity usage; or
- (iii) where Arqiva has agreed to make emergency back-up generated supplies available.

5.4.3 Arqiva will not be required to discount its electricity supply charges to the Customer at a Station to a price below the standard unit tariff price of the local electricity Utilities Provider unless any discounted price obtained is solely attributable to the amount of the Customer's usage.

5.5 Additional Fees – Business Rates

5.5.1 Arqiva will pay business rates bills attributed and separately assessed on it by the relevant Valuation Office Agency ("VOA") in respect of a Station.

5.5.2 If the Customer receives a separately assessed business rates bill from the relevant charging authority, attributable solely to the Customer's use of a Station, it will notify Arqiva and provide it with a copy of the bill but the

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- Customer shall otherwise be responsible for and shall pay any such bill in full without deduction.
- 5.5.3 Where the Customer does not receive a separate assessment from the VOA, or a separate business rates bill from the relevant charging authority, the Customer will nevertheless be responsible for paying annually in advance to Arqiva a sum representing the Customer's Portion of the business rates properly attributable to all or any part of the Customer's paying occupation and use of a Station, including a portion of the business rates bill properly attributable to the Customer's use of any Moveable Equipment Cabin (or any Equipment Housing), the Mast/Antenna Support Structure and the associated rateable value pertaining to such use.
- 5.5.4 Where business rates bills are received by Arqiva which include values assessed in respect of any of the matters referred to in General Condition 5.5.3 ("**Merged Bills**"), then Arqiva will be responsible for paying or otherwise procuring their payment but will also make a fair and reasonable assessment of the amount of a Merged Bill attributable to the Customer ("**Customer's Portion**") and invoice the Customer for such amount and the Customer shall pay the Customer's Portion as an Additional Fee.
- 5.5.5 Arqiva will act fairly and reasonably in making its assessment of the Customer's Portion.
- 5.5.6 The Customer will pay an Additional Fee being a reasonable annual contribution towards Arqiva's administrative costs of assessing the Customer's Portion, ("**the Customer's Administration Contribution**") to be paid annually in advance on the 1st April or such other date agreed by the Parties in each year of the Term of the relevant Station Schedule.
- 5.5.7 Any dispute arising in connection with the assessment of the Customer's Portion or the Customer's Administration Contribution which cannot be resolved between Arqiva and the Customer will be referred by Arqiva to a reputable third party Chartered Surveyor appointed by Arqiva and experienced in advising in rating matters ("**the Rating Consultant**"). The Rating Consultant will be required to act in an independent capacity for this purpose, and his determination will be accepted as final and binding, with the Party who initiated the dispute being responsible for paying the Rating Consultant's fees for any such dispute resolution.
- 5.5.8 Arqiva will consider any reasonable representations by the Customer to appeal any rating valuations on a Station, which has Merged Bills. Where Arqiva chooses not to appeal any rating valuations, Arqiva's decision will be accepted as final.
- 5.5.9 Where Arqiva makes an appeal against any rating valuations on a Station which has Merged Bills then the Customer agrees to pay an Additional Fee by way of contribution towards the actual staff and third party costs and reasonable expenses incurred by Arqiva in respect of the appeal ("**the Appeal Costs**"). The Customer's contribution will be that percentage of the Appeal Costs at a Station, which is equivalent to Customer's Portion expressed as a percentage of the Merged Bill at that Station.
- 5.5.10 Following any re-assessment of any rating valuation of a Station in consequence of an appeal, the Customer's Portion may be re-assessed and any recalculation of the Customer's Portion will only be made and backdated to the effective date of the revised Merged Bill as re-issued by the relevant charging authority.
- 5.5.11 For the avoidance of doubt and for all Stations the Customer's Portion, the Customer's Administration Contribution and the Customer's Appeal Costs contribution are business rates contributions and as such are Additional Fees which are not site sharing income and do not form part of the Charges. All Additional Fees payable under this General Condition 5.5 (*Additional Fees - Business Rates*) are not intended to be included in any calculation of Landlord Revenue Share and are therefore not part of any calculation of Landlord Supplements, and as Additional Fees they are also subject to VAT, payable in addition to any stated amounts, at the prevailing rate.
- 5.6 Additional Fees – Access Permit Fees**
- 5.6.1 The Customer will be responsible for paying as an Additional Fee any Access Permit Fees which shall be due and payable to Arqiva as an Additional Fee in respect of each Site Sharing Licence subject to the Structure and Rooftop Access Policy.:-
- 5.6.2 Arqiva will be entitled to review and where reasonable to do so increase Access Permit Fees payable from time to time under the Structure and Rooftop Access Policy the timing of such reviews to be in its discretion, provided such reviews do not occur more often than at annual intervals or otherwise as provided under this General Condition 5.6 and shall only take effect following prior written notification to the Customer.
- 6. CESSATION OF CHARGES & ADDITIONAL FEES**
- 6.1 Following termination of a Site Sharing Licence by either Party pursuant to any of the provisions of General Condition 12 (*Variation and/or Termination*), the Charges in respect of a Station will (subject to the provisions of General Condition 4.2 (*Minimum Period*)) cease to be payable with effect from the effective termination date.
- 6.2 General Condition 6.1 will be without prejudice to the rights:
- (i) of either Party to pursue any action or remedy in respect of any antecedent breach by the other of any of its obligations under the relevant Site Sharing Licence (subject to the provisions of General Condition 11 (*Indemnity Insurance & Limitation of Liability*)); and
 - (ii) of Arqiva to recover any Charges, Additional Fees or other sums payable under a Site Sharing Licence in consequence of or otherwise properly due and outstanding prior to the date of such termination.
- 7. RIGHTS & OBLIGATIONS OF THE CUSTOMER**
- 7.1 Permitted Use**
- The Customer's Permitted Use of a Station shall be the non-assignable, non-shareable, licensed right to share use of specified common facilities at a Station (in common with Arqiva and others permitted by Arqiva) for the Customer's named Electronic Communications Service and for the named Customer's Equipment described in the relevant Site Sharing Licence, subject also to any additional limitations on such Permitted Use as described or implied in the Site Sharing Licence and in these General Conditions.
- 7.2 Receipt of statutory, planning and third party consents and execution of a Site Sharing Licence**
- 7.2.1 The Customer will not start using a Station until, on or after the Effective Commencement Date and further will not use a Station unless or until:-
- (i) the Customer has obtained any Customer Licence required by law in relation to the use of Customer's Equipment; and
 - (ii) Arqiva has confirmed that any town and country planning and third party consents required to be obtained to enable the Customer's Equipment to be installed and used on a Station for the Permitted Use have been obtained; and
 - (iii) a Site Sharing Licence for the relevant Station has been issued by Arqiva, signed by the Customer and countersigned by Arqiva.

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- 7.2.2 Subject to General Conditions 7.2.3, 7.2.4, 7.2.5 and General Condition 7.6.1(*Working at Heights*) and in consideration of the Charges, Arqiva will during the Term:-
- (i) permit the Customer to retain and use Customer's Equipment at a Station for the Permitted Use described in the relevant Site Sharing Licence (the Customer's Equipment to be retained on the Station in accordance with location and elevation plans reasonably agreed between Arqiva and the Customer for this purpose);
 - (ii) and in further consideration of the Access Permit Fees, subject to supervision by Arqiva during the currency of any such works (for which supervision an additional Access Permit Fee shall be payable by the Customer), permit those of the Customer's Approved Suppliers/Contractors who conform to the relevant requirements of the Structure and Rooftop Access Policy Rules to undertake the installation, inspection, maintenance, repair, renewal and removal as necessary (and at the Customer's expense) of Customer's Equipment in under or over such other part or parts of a Station as Arqiva may from time to time approve in writing (such approval not to be unreasonably withheld or delayed) (save that where any such works are required to be carried out by Arqiva's employees and sub-contractors under the provisions contained in the Structure and Rooftop Access Policy Rules then General Condition 7.2.2(iii) below shall apply);
 - (iii) carry out (at the Customer's expense) any Working at Heights requested by the Customer (as the provisions relating to such requests are more particularly detailed in General Condition 7.6.1(*Working at Heights*)); and
 - (iv) permit the Customer to share use of any specifically designated common parts of a Station in common with others including Arqiva, as Arqiva may from time to time designate,
- and Arqiva may also permit the Customer to use a Station for other ancillary purposes from time to time in its discretion, provided all such permitted ancillary purposes are recorded in the relevant Site Sharing Licence.
- 7.2.3 The Customer will not:
- (i) install or attempt to install any equipment other than the Customer's Equipment at a Station (or inside the Customer's Moveable Equipment Cabin at a Station);
 - (ii) install or attempt to install any Customer Equipment at a Station that has not been confirmed by Arqiva as having an Agreed Exposure Density;
 - (iii) if the person or legal entity to be employed by the Customer to carry out the installation of Customer's Equipment is not an employee or sub-contractor employed by Arqiva, the Customer shall not permit such person or legal entity to start any installation of the Customer's Equipment unless such person or legal entity is able to verify in writing (in such form as Arqiva shall reasonably require) that they meet the requirements of and shall otherwise comply with the relevant provisions of the Structure and Rooftop Access Policy; and
 - (iv) operate or use the Customer's Equipment located at a Station other than at the Agreed Exposure Density and for the Permitted Use.
- 7.2.4 The scope of build works necessary to prepare a Station for the installation of any Customer's Equipment listed in a Site Sharing Licence shall be agreed with and approved by Arqiva prior to the commencement of any installation works and the said scope of works must also identify all the Customer's Equipment to be installed and for which the Charges set out in the relevant Site Sharing Licence are payable. Unless any additional equipment is specifically identified in that Site Sharing Licence as "reserved" Customer's Equipment, then despite any references to a maximum number of pieces of equipment associated with a charges formula in any Site Sharing
- Ratecard, the Customer is not deemed to have reserved any rights to place additional equipment on a Station other than the Customer's Equipment listed in a Site Sharing Licence in consideration of those Charges.
- 7.2.5 Where a Site Sharing Licence identifies "reserved" Customer's Equipment, Arqiva does not give any warranty or guarantee to the Customer as to the suitability or capacity of the Station to accommodate "reserved" Customer's Equipment during the Term. However, if at any time during the Term the Customer asks Arqiva to approve a scope of build works necessary to prepare a Station for the installation of any "reserved" Customer's Equipment, then subject to the availability of space on the Station and to the availability of space and loading capacity on the Mast/Antenna Support Structure, Arqiva will use all reasonable endeavours to accommodate such "reserved" Customer's Equipment at the Station in consideration of the existing Charges in the relevant Site Sharing Licence, and without seeking further payment, other than:
- (i) any costs, fees and expenses (including legal expenses) associated with acquiring additional demise or third party land, capital, build and installation services to prepare a Station for such "reserved" Customer's Equipment (such build works to be contracted separately to Arqiva in accordance with agreed protocols); and
 - (ii) any Additional Fees associated with such "reserved" Customer's Equipment for the remainder of the Term.
- 7.3 Customer's Equipment - Moveable Equipment Cabins**
- 7.3.1 Unless an alternative arrangement is made with Arqiva for the provision of racking space within Arqiva-provided Equipment Housing, the Customer will normally provide its own moveable equipment container or cabin to house that part of the Customer's Equipment required for the Permitted Use which needs to be containerised ("**Moveable Equipment Cabin**") Such Movable Equipment Cabins will be provided, owned and maintained by the Customer at the Customer's expense and solely for the Customer's exclusive use and will be deemed to form part of the Customer's Equipment for the purpose of the General Conditions and the remainder of the Term of the relevant Site Sharing Licence.
- 7.3.2 The Customer agrees and confirms that Arqiva shall have the right at any time during the Term to relocate any such Moveable Equipment Cabin within the Station boundary provided such relocation does not:
- (i) result in any additional Charges or other Additional Fees payable by the Customer;
 - (ii) damage the Customer's Equipment; or
 - (iii) adversely affect the performance of the Customer's Equipment;
- and where Arqiva uses its best practicable efforts to maintain reasonable continuity of service during any such relocation works.
- 7.3.3 The Customer will be responsible for the safety and security of any Moveable Equipment Cabins but shall also provide Arqiva with a key to the same to be retained by Arqiva in a suitable secure position for use in cases of emergency, to enable Arqiva to check that the Customer is complying with its obligations under the relevant Site Sharing Licence and otherwise solely for the purpose of exercising its rights under the relevant Site Sharing Licence and these General Conditions.
- 7.4 Arqiva Owned Equipment Housing**
- 7.4.1 Any request by the Customer to occupy any new or existing Arqiva owned Equipment Housing will be considered by Arqiva in its discretion. Where Arqiva agrees to provide housing in any new or existing Arqiva owned Equipment Housing the Charges shall be adjusted to include a fee for such space. The Customer may also be required to pay Additional Fees for any agreed new installation build works associated with the provision of Arqiva owned Equipment Housing (which will also include

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fees for seeking any planning and third party consents), such Additional Fees to be calculated in accordance with the Arqiva schedule of rates agreed with the Customer for such build works. Irrespective of any such Additional Fees paid by the Customer, Arqiva owned Equipment Housing will remain at all times in the ownership and control of Arqiva (or its Landlord), and in respect of any new Arqiva owned Equipment Housing constructed at the Customer's cost, such ownership shall vest in Arqiva upon completion of its construction and installation.

7.4.2 Nothing in a Site Sharing Licence will confer on the Customer any right to exclusive occupation of any Arqiva owned Equipment Housing, (including any Arqiva owned Equipment Housing constructed on a Station at the Customer's cost), and the Customer will not object to Arqiva relocating Customer's Equipment within Arqiva owned Equipment Housing or permitting others (including Arqiva) to share occupation of any Arqiva owned Equipment Housing on such terms as Arqiva will decide, provided such relocation and/or shared occupation does not:

- (i) result in any additional Charges or Additional Fees payable by the Customer;
- (ii) damage the Customer's Equipment; or
- (iii) adversely affect the performance of the Customer's Equipment.

7.5 Access

7.5.1 Subject to:

- (i) any Special Conditions;
- (ii) the Customer procuring that all such persons acting through or under it fully comply with the relevant provisions of Arqiva's Structure and Rooftop Access Policy for the relevant Station (including compliance with any ancillary provisions relating to the use of keys and access routes issued from time to time by Arqiva),

Arqiva will in so far as it is able lawfully to do so, grant to the Customer the rights:

- (iii) for the Customer and its Approved Suppliers/Contractors and Authorised Sub-Customers to use any private access way leading to a Station boundary which is under the control of Arqiva (either with or without motor vehicles as Arqiva may decide) at all times and as often as the Customer may reasonably require in order to gain access to such Station; and
- (iv) with effect on and from the Effective Commencement Date, reasonable access to the Customer's Equipment located in any Moveable Equipment Cabins or in any Arqiva owned Equipment Housing for the Customer's Approved Suppliers/Contractors as permitted under these General Conditions subject to any additional access restrictions set out in the relevant Site Sharing Licence; and
- (v) for any representatives of the Office of Communications (OFCOM) or any equivalent regulatory body or bodies in countries other than England and Wales) to enter a Station insofar as is necessary to comply with any statutory rights of inspection reserved or implied under any Customer Licence; and
- (vi) for the Customer to permit its Authorised Sub-Customers to view and inspect any of the Customer's Equipment as necessary subject to these General Conditions and to any additional access restrictions set out in the relevant Site Sharing Licence.

7.5.2 In addition to the provisions of General Condition 7.5.1, the Customer acknowledges that:

- (i) Arqiva's representative (which description may include an employee of any Landlord of Arqiva's authorised by Arqiva for this purpose) may refuse entry to a Station to a person who does not produce a suitable identification pass or other means of identification as Approved Suppliers/Contractors or an Authorised Sub-Customer to any Arqiva's representative at a Station

and further that Arqiva's representative may refuse admittance to and require the removal from a Station of any person whose behaviour Arqiva's representative reasonably considers undesirable and/or likely to disrupt the safe operation of such Station; and

- (ii) it will be responsible for the conduct and behaviour of any Approved Suppliers/Contractors (save where such Approved Suppliers/Contractors are Arqiva's employees or sub-contractors) and for its Authorised Sub-Customer during any such visits to a Station and will procure that they behave in a responsible manner and comply with any reasonable requests of Arqiva's representative and otherwise comply with any relevant terms of a Site Sharing Licence.

7.5.3 Where access to a Station involves the use of any private land which is not a highway maintainable at public expense, then the Customer will ensure that its Approved Suppliers/Contractors (save where such Approved Suppliers/Contractors are Arqiva's employees or sub-contractors) and its Authorised Sub-Customers observe or cause to be observed any impositions relating to the use of such land for access purposes including any restrictions relating to the weight, type and specification of vehicles to be used on such land notified to it by Arqiva. Any such restrictions as to vehicular or pedestrian access to a Station will be treated as a Special Condition for the purposes of the relevant Site Sharing Licence. The Customer will be responsible for paying the cost of making good any damage (fair wear and tear excepted) caused by the use of such land by the Customer's Approved Suppliers/Contractors and its Authorised Sub-Customers to Arqiva's reasonable satisfaction.

7.5.4 Arqiva may from time to time modify the means of access to a Station or to the Customer's Equipment on a Station made necessary:

- (i) by any works in progress,
- (ii) for reasons of terrain or proximity to residential housing;
- (iii) to meet any legally imposed restrictions (including any contained in any planning permissions);
- (iv) for safety purposes or generally in the interests of orderly management; and
- (v) as otherwise set out in the Structure and Rooftop Access Policy Rules;

(which modifications may include the imposition of reasonable instructions regarding admittance to a Station and the number, supervision and times of visits), provided that Arqiva will act reasonably in this respect and will not seek to impose any restrictions which prevent the exercise of the Customer's right to reasonably enjoy a Station for the Permitted Use.

7.5.5 Subject to the payment of the Access Permit Fees, where the Customer makes any permitted unsupervised visits to a Station the Customer will also be responsible for complying with any logging & pre-notification requirements issued from time to time by Arqiva for the proper management of such Station and for opening and closing any gates and relocking any access points.

7.6 Alterations & Permitted Works - Safety, Non-Interference And Maintenance Of The Customer's Equipment

7.6.1 Working at Heights

(a) Save as may be permitted under the provisions contained in the Structure and Rooftop Access Policy Rules from time to time applicable, any works required by the Customer at a Station involving initial installation and termination removal works at a Station and any Working at Heights must be carried out by Arqiva (unless agreed by Arqiva to the contrary), its employees and contractors only, under Arqiva's access, design and build services terms and conditions applicable from time to time and at the Customer's expense and subject to Arqiva's:

- (i) receipt of Additional Fees payable for such works requested in writing by the Customer (in the form of a

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purchase order) such Additional Fees to be calculated in accordance with the Arqiva schedule of assessment, planning and building work rates applicable for the year in which the works are to be provided and agreed with the Customer for such works; and

- (ii) including but not limited to Additional Fees for Arqiva submitting any necessary planning applications and preparing any requisite planning and detailed works plans showing the proposed installations, including any antennas, wiring and manner of linking, fixing and erection of the same on the Mast/Antenna Support Structure and/or dealing with their removal.
- (b) Despite the provisions contained in General Condition 7.6.1(a), if, during the Term, Arqiva expressly permits (in advance and in writing) the Customer's Approved Suppliers/Contractors to carry out certain working on Mast/Antenna Support Structures unattended, such works shall be carried out in accordance with General Condition 7.6.1 (c).
- (c) The Customer shall ensure that any works involving Working at Heights not carried out by Arqiva's employees or sub-contractors but otherwise permitted to be carried out by any of the Customer's other Approved Suppliers/Contractors under the Structure and Rooftop Access Policy are carried out:-
 - (i) in compliance with the requirements of the Structure and Rooftop Access Policy;
 - (ii) in compliance with CDM Regulations;
 - (iii) subject to the Customer first obtaining through the agency of Arqiva any necessary town and country planning and third party consents;
 - (iv) subject to Agreed Exposure Density;
 - (v) subject to Arqiva's prior approval of works plans and the timetable for the works; and
 - (vi) in compliance with an agreed works timetable and where the Customer provides Arqiva with a full set of as-built drawings on completion of the works.
- (d) In relation to any works requested by the Customer and carried out by Arqiva employees or sub-contractors at a Station to which the CDM Regulations apply, (including any Working at Heights), Arqiva will be deemed the client for the purposes of the CDM Regulations and where necessary the Customer appoints Arqiva to act as the only client in respect of such works pursuant to Regulation 4 of the CDM Regulations.

7.6.2 Changes to Customer's Equipment (including any changes to its Agreed Exposure Density)

- (a) The Customer will not carry out any activity (including activities and works both within and outside a Station) that may result in any change to:
 - (i) the Permitted Use;
 - (ii) the size, weight or orientation of the Customer's Equipment;
 - (iii) the Customer's Equipment Agreed Exposure Density; or
 - (iv) the stated technical operating specifications of the Customer's Equipment,without first obtaining the prior written approval of Arqiva.
- (b) Where Arqiva agrees to permit any change referred to in General Condition 7.6.2(a), it will also be entitled to require the Customer to:
 - (i) agree the relevant scope of works ;
 - (ii) provide revised details of the Customer's Equipment's Agreed Exposure Density;
 - (iii) enter into a replacement Site Sharing Licence if required to reflect such changes; and/or
 - (iv) amend the Charges and Additional Fees.
- (c) Arqiva may in its discretion require that any alteration works or other change to the Customer's Equipment carried out on the Station outside the boundary of any Moveable Equipment Cabin and not being:
 - (i) Working at Heights which the Customer is required to carry out using Arqiva's employees or sub-contractors; or

- (ii) works which the Customer is expressly permitted to carry out unsupervised as set out in the Structure and Rooftop Access Policy;

are nevertheless carried out or otherwise supervised by Arqiva at the Customer's expense, and in such circumstances the Customer will be required to identify and agree the scope of works and the works timetable with Arqiva and pay Additional Fees for such works or supervision services calculated in accordance with the Arqiva schedule of rates agreed with the Customer for such services.

7.6.3 Alterations to a Station or other Arqiva property

If any works proposed by the Customer involve any alterations to any Arqiva property (including any common parts of a Station or any Arqiva equipment), Arqiva may refuse consent to such works, and where it consents to any such works it may also impose conditions on such consent including inter alia the performance of such works by Arqiva or its sub-contractors, or otherwise under the supervision of Arqiva and a requirement for reinstatement of any Arqiva property or equipment to its former condition at the determination of a Site Sharing Licence, all at the Customer's expense.

7.6.4 Safe Operation and ICNIRP compliance

- (a) The Customer will ensure that the Customer's Equipment is maintained in good and safe repair and condition during the Term and to Arqiva's reasonable satisfaction (including the carrying out by the Customer of regular and prudent documented safety inspections and to produce written evidence of such inspection results to Arqiva on request at the Customer's expense).
- (b) The Customer will comply with all Health and Safety legislation applicable to the Customer's Equipment and will comply with all guidelines from time to time issued by ICNIRP applicable to the Customer's Equipment.
- (c) The Customer will provide Arqiva on request (but normally not more often than once a year unless the Customer proposes to make a significant change to the Customer's Equipment, its size, weight or orientation, in which case a report will be required detailing the change prior to such change taking place) with a compliance report relating to the Agreed Exposure Limit of the Customer's Equipment in relation to the ICNIRP Limit or other ICNIRP guidelines in so far as they affect adjoining areas to which the public have legitimate access and in the event of radio-frequency radiation levels from the Customer's Equipment failing to meet such guidelines in so far as they affect adjoining areas to which the public have legitimate access Arqiva may require the Customer to switch off the Customer's Equipment until remedial action has been undertaken so that the ICNIRP guidelines are met in relation to the said adjoining areas.
- (d) Without prejudice to the foregoing, the Customer will also provide Arqiva on request with current details of electricity output of the Customer's Equipment to enable Arqiva to undertake periodic Station electricity output audits in order to demonstrate station compliance with the ICNIRP Limit and any other ICNIRP guidelines or regulatory or UK industry best practice audit requirements

7.6.5 Interruption due to Electricity Supply Failure

Without prejudice to the provisions contained in General Condition 8 (*Reducing Electricity Supply or Switching Off the Customer's Equipment*), unless otherwise provided in any separate Electricity Connection and Supply Agreement, and subject to General Condition 11.2 (*No Exclusion*), the Customer agrees that Arqiva will not be held responsible by the Customer for any failure or interruption to any electricity supply, or be held liable for any loss or damage (including any consequential losses) howsoever arising in consequence of any failure to provide electricity caused other than in consequence of any negligent act or omission of Arqiva.

7.6.6 Good Neighbour

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In addition to its maintenance and inspection obligations under General Condition 7.6.4(a), the Customer will also be responsible for ensuring:

- (i) the Customer's Moveable Equipment Cabins are maintained in good, clean and safe repair and condition;
- (ii) that part of the interior of any Arqiva owned Equipment Housing comprising part of a building which is used by the Customer to accommodate Customer's Equipment is kept in a clean and tidy condition and free from its own rubbish;
- (iii) any doors or access openings comprised in any Equipment Housing (or Customer's Equipment comprising Moveable Equipment Cabins) and all other common parts of the Stations are kept free of any obstruction caused by the Customer or its Approved Suppliers/Contractors;

and to otherwise exercise its Permitted Use of a Station in accordance with any reasonable requirements from time to time imposed by Arqiva to ensure compliance with any relevant town and country planning and third party consents and for the benefit of the health and safety of all lawful users of that Station (including the Customer) and the clean and tidy maintained appearance and efficient operation of that Station.

7.6.7 Non-Interference

- (a) The Customer will use all reasonable endeavours to ensure that the Customer's Equipment does not at any time electrically or physically impair, disrupt, interfere with or interrupt any of Arqiva's or any third party users' emissions and forthwith will use all reasonable endeavours to ensure repair of any faults in the Customer's Equipment which cause or may cause any such interference and will indemnify Arqiva against any losses incurred by Arqiva or any third party in remedying any such faults.
- (b) Without prejudice to the provisions of General Condition 7.6.7(a), in the event of any interference being caused to any Arqiva provided network services (or to equipment of any other lawful third party users at a Station by the Customer's Equipment, the Customer will forthwith either eliminate the interference or where there is interference which cannot be remedied in such time as Arqiva will reasonably require, the Customer will switch off the Customer's Equipment until such time as the interference has been eliminated, the cost of all such measures to be borne by the Customer.

7.6.8 Town and Country Planning

- (a) Any works proposed by the Customer requiring planning consent or building regulations approval will be subject to this General Condition 7.6.8.
- (b) The Customer will not submit any applications or appeals for planning permission (meaning any application for planning permission, applications under general development orders or by licence notification) in relation to any Arqiva site, or a Station, or the Customer's Equipment or any Arqiva owned Equipment Housing.
- (c) Any applications or appeals referred to in General Condition 7.6.8(b) required by the Customer will be submitted by Arqiva on behalf of the Customer, and in such circumstances Arqiva will also be entitled to recover Additional Fees for acting as the Customer's agent for this purpose (such Additional Fees to be calculated in accordance with the Arqiva schedule of rates for such services). The Customer will also (and at its own cost) provide all reasonable information, support and assistance to Arqiva in connection with any applications or appeals made on the Customer's behalf.

7.7 Other Obligations of the Customer

7.7.1 Retention of Customer Licence

At its own expense, the Customer will retain and otherwise observe and comply with the terms and conditions contained in any Customer Licence applicable to the Customer's Equipment throughout the Term.

7.7.2 Labelling

- (a) The Customer will label clearly each piece of the Customer's Equipment located on or otherwise contained within any Arqiva owned Equipment Housing with the Customer's name and the frequencies used by such Customer's Equipment.
- (b) Arqiva will require feeder cables comprised in the Customer's Equipment to be uniquely and permanently identified at each end and at the point of exit from the Mast/Antenna Support Structure and will require the Customer to agree with Arqiva as to the most practical and appropriate way for this to be achieved and recorded.

7.7.3 No Arqiva liability for Customer's Equipment

The Customer accepts and agrees that subject at all times to General Condition 11.2 (*No Exclusion*) no liability will attach to Arqiva or any Arqiva employees or sub-contractors under a Site Sharing Licence in respect of the performance or non-performance, safety or suitability for its purpose of any of the Customer's Equipment and nor will Arqiva be held liable by the Customer or by any persons acting through the Customer for the installation of any Customer Equipment which was not carried out by Arqiva or its sub-contractors.

7.7.4 No erections or installations other than those listed in a Site Sharing Licence are permitted

The Customer will not erect or cause to be erected any buildings or structure or other erection on a Station save as specifically permitted in the relevant Site Sharing Licence.

7.7.5 No tampering with Arqiva or third party equipment or facilities

The Customer will not tamper with or carry out any non-permitted works or otherwise cause or permit others acting through it to carry out non-permitted works nor will the Customer cause or permit to be caused any damage to a Station, the Mast/Antenna Support Structure, Equipment Housing or any other property or equipment belonging to Arqiva, its Landlords, or any lawful third party located on a Station.

7.7.6 No nuisance

In exercising the rights granted under a Site Sharing Licence, the Customer will not do or permit anything to cause interference, nuisance, annoyance, inconvenience, loss or damage to Arqiva.

7.7.7 Visitors

The Customer will not (save as permitted in General Condition 7.5 (*Access*)) permit or allow any other persons to:

- (i) visit a Station;
 - (ii) access the Mast/Antenna Support Structure;
 - (iii) enter the Customer's Moveable Equipment Cabin;
 - (iv) enter onto any Arqiva owned Equipment Housing; or
 - (v) otherwise handle Customer's Equipment;
- without the prior written consent of Arqiva.

7.7.8 Compliance & Behaviour Indemnity

- (a) The Customer will ensure that while at a Station its Approved Suppliers/Contractors (other than any Arqiva employees or sub-contractors, who will remain the responsibility of Arqiva) and any Authorised Sub-Customers behave in a responsible manner and comply with all Arqiva's reasonable security and/or safety requirements.

- (b) If any loss or damage is caused to a Station or to any property or equipment thereon belonging to Arqiva or to any third party as a result of a failure by the Customer, or
 - (i) its Approved Suppliers/Contractors (other than any Arqiva employees or sub-contractors, who will remain the responsibility of Arqiva); or
 - (ii) its Authorised Sub-Customers;to comply with General Condition 7.7.8 (a) (and not as the result of any negligent act or omission of Arqiva or its employees or contractors) the Customer will fully indemnify Arqiva for such loss or damage incurred as a result of such breach (including its fees for remedying

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such damage, which will be treated as Additional Fees for this purpose).

7.7.9 Negotiation of rights to use land outside a Arqiva-Station

Where the agreed scope of works for the installation of the Customer's Equipment indicates that any of the Customer's Equipment or ancillary installations required to be provided by Utilities Providers is to be placed on, above, or below ground outside a Station's boundaries and where Arqiva is not otherwise able to grant any rights of installation over such ground, the Customer or its Utilities Provider will obtain, at the Customer's expense, the agreement of any other third party or parties having an interest in such ground prior to installation and will indemnify Arqiva fully in this respect.

7.7.10 Negotiating with Utilities Providers - Wayleave Charges

- (a) Unless specifically agreed otherwise in a Site Sharing Licence, the Permitted Use will be deemed to include permission for connectivity to enable the Customer to either:-
- (i) have an Electricity Connection and a wireline connectivity link installed as part of the Customer's Equipment within a Station boundary for the Permitted Use, in such shared or exclusive location or locations reasonably approved by Arqiva, or
 - (ii) share use of an existing Electricity Connection and a wireline connectivity link located on the Station which Arqiva agrees can be shared for this purpose.
- (b) Where an Electricity Connection and/or wireline connectivity link is to be provided by a Utilities Provider and not self provided by the Customer, or by Arqiva, the Customer's selected Utilities Provider will be required to enter into a rent free, standard form wayleave agreement with Arqiva prior to its installation.
- (c) Where shared use of an existing Electricity Connection and/or wireline connectivity link is made available to the Customer other than by:
- (i) Arqiva; or
 - (ii) a Utilities Provider who has entered into a wayleave agreement with Arqiva;
- then the Customer may be required to enter into a rent free, standard form shared wayleave agreement with Arqiva prior to commencement of such shared use.
- (d) Any connectivity links other than one wireline connectivity link may be permitted at Arqiva's discretion subject to payment of additional Charges and entry into wayleave agreements where appropriate.
- (e) Unless the provision of an Electricity Connection is included in any Electricity Connection and Supply Agreement and/or the provision of an Electricity Connection and connectivity links is included in the scope of works for installation of the Customer's Equipment approved by Arqiva (and any antennas required for connectivity are included in the list of Customer's Equipment in the relevant Site Sharing Licence), it will be the responsibility of the Customer to negotiate any additional approved ancillary services required by the Customer from Arqiva or from Utilities Providers to enable this part of the Permitted Use, subject to obtaining Arqiva's prior consent to such ancillary services and to the location of any Utilities Providers equipment relating to the same on or under a Station, including any located within any Moveable Equipment Cabins or within any Arqiva Owned Equipment Housing and any located on any Mast/Antenna Support Structure, (which consent will not be unreasonably withheld or delayed, subject to obtaining any additional Landlord consent required).
- (f) The Customer will:
- (i) procure any Utilities Providers contracted directly by the Customer enter into appropriate wayleave agreements with Arqiva (and where applicable the Landlord);

- (ii) arrange (but only where reasonably required to do so by Arqiva) the removal of any such Electricity Connection and connectivity links equipment at the end or sooner termination of the Term, at the Customer's expense;
- (iii) pay Arqiva's reasonable Additional Fees for reinstating any damage caused to a Station by such removal; and
- (iv) pay Arqiva's reasonable Additional Fees for supervising any works permitted to be performed on a Station by any such directly contracted Utilities Providers.

7.7.11 No Signage

The Customer will not erect or permit or suffer or allow to be erected any sign, notice or advertisement on a Station save only such sign(s) or notice(s) as Arqiva will in its reasonable discretion permit.

7.7.12 Not reside

The Customer will in no circumstances permit or suffer or allow its Approved Suppliers/Contractors (other than any Arqiva employees or sub-contractors, who will remain the responsibility of Arqiva) or its Authorised Sub-Customers or any other third party to reside at a Station.

7.7.13 Not light fires or obstruct emergency routes

The Customer will not light or permit or suffer to be lit any fire on a Station or on any access thereto nor block or obstruct nor permit or suffer to be blocked or obstructed any fire exits or access for fire fighting equipment.

8. REDUCING ELECTRICITY SUPPLY OR SWITCHING OFF THE CUSTOMER'S EQUIPMENT

8.1 In emergencies, to combat interference, in response to regulatory requirement, with consent, on insolvency or otherwise following termination

Without prejudice to the provisions of General Condition 7.6.7 (*Non-Interference*), and General Condition 7.6.4 (*Safe Operation and ICNIRP compliance*), the Customer acknowledges that Arqiva will insofar as is permitted by law be entitled to switch off the Customer's Equipment (and in the case of General Condition 8.1(i), (v) and (vi) below, switch off and remove the Customer's Equipment from the Mast/Antenna Support Structure)-

- (i) in a life or property threatening emergency;
- (ii) where the Customer's Equipment is causing interference to any Electronic Communications Service of other lawful users of a Station (including Arqiva) and where Arqiva has contacted and informed the Customer that such interference exists and where Arqiva has allowed the Customer a reasonable period being not less than 24 hours from the time of such contact being made to remedy any such interference caused by the Customer's Equipment, or has otherwise requested the Customer to reduce electricity supply or to switch off the Customer's Equipment as required under General Condition 8.4 (*To enable safe Working on the Mast/Antenna Support Structure*), but the Customer has not done so;
- (iii) if required to do so by a Government authority provided that Arqiva informs the Customer of such requirement before the Customer's Equipment is switched off;
- (iv) with the agreement of and/or at the request of the Customer;
- (v) where the Customer has terminated its requirement for a Station pursuant to General Condition 12. (*Variation and/or Termination*) but has failed to remove the Customer's Equipment in accordance with General Condition 12.11 (Removal of Client's Equipment);
- (vi) where the provisions of General Condition 12.1 (*Material Breach or Insolvency*) apply to the Customer.

8.2 Agreed electricity supply reduction & switch off rights

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The Customer agrees to the extent permitted by law to waive any rights it holds under the Telecommunications Act 1984 (as amended by the Communications Act 2003) or any other applicable statutory provisions to enable such reduction in electricity supply or switch off and removal to take place in the circumstances set out in General Condition 8.1 (*In emergencies, to combat interference, in response to regulatory requirement, with consent, on insolvency or following termination*) and will provide a switch on the Customer's Equipment to enable it to be switched off by Arqiva in accordance with General Condition 8.1.

8.3 Notification to Customer

Arqiva will in the event of the Customer's Equipment being switched off, or switched off and removed in reliance upon the rights reserved under General Condition 8.1 (*In emergencies, to combat interference, in response to regulatory requirement, with consent, on insolvency or following termination*), notify the Customer of this fact as soon as reasonably practicable.

8.4 To enable safe Working on the Mast/Antenna Support Structure

8.4.1 The Customer agrees that if requested by Arqiva, (and on being given reasonable prior notice) it shall temporarily:

- (i) reduce electricity supply; or
- (ii) switch off, or
- (iii) relocate the Customer's Equipment by arrangement with Arqiva's Account Manager or other Approved representative,

without compensation, where Arqiva in its reasonable opinion considers the radiation level of the Customer's Equipment is unsafe for access to the Mast/Antenna Support Structure for general maintenance works and/or Working at Heights by:-

- (iv) Arqiva, its employees and sub-contractors;
- (v) other Approved Suppliers/Contractors;
- (vi) the Landlord; and
- (vii) the approved suppliers/contractors of other lawful third party users of a Station permitted to carry out such works under the Structure and Rooftop Access Policy Rules.

8.4.2 If Arqiva exercises its rights under General Condition 8.4.1, the Customer will keep the Customer's Equipment on reduced electricity supply or switched off or temporarily relocated until all such persons and their equipment have completed the necessary works and vacated the Mast/Antenna Support Structure.

8.4.3 Arqiva will make every reasonable effort to ensure any requests made pursuant to General Condition 8.4.1 only occur at times when there will be minimum disruption to the Customer's Permitted Use.

9. NO ENLARGEMENT OF RIGHTS

9.1 Not to exercise code powers & indemnification

9.1.1 The Customer agrees that where it has any rights of enlargement of its interest under a Site Sharing Licence by virtue of electronic communications code powers under the Telecommunications Act 1984 (as amended by the Communications Act 2003) or otherwise it will not exercise such code power rights (insofar as it is able lawfully to contract out of the same hereunder) where such exercise would cause financial loss or liability to Arqiva or any Landlord.

9.1.2 Without prejudice to the generality of the foregoing the Customer also agrees that if it applies code powers in order to enlarge its contractual rights under a Site Sharing Licence it will also accept in addition to any statutory remedies available to Arqiva and its Landlord, that the Customer shall be required to indemnify Arqiva and its Landlord against any loss or damages and other liabilities costs and expenses (including court and legal costs assessed on a solicitor-client basis) whether or not foreseeable claimed against Arqiva or its Landlord where

such exercise of powers by the Customer has caused Arqiva or a Landlord to be in breach of any contract terms either with each other or with any third parties in relation to a Station, provided Arqiva will not (and will use its best practicable efforts to procure its Landlord does not) settle or compromise any such claims without prior notice to and the consent of the Customer (such consent not to be unreasonably withheld or delayed).

9.2 No creation of Landlord and Tenant relationship

The Customer acknowledges that a Site Sharing Licence permits the Customer to share use of a Station with Arqiva and other licensees of Arqiva – in the case of the Customer for the Permitted Use only - and that no provisions in a Site Sharing Licence are intended to create nor will be treated or construed as creating the relationship of landlord and tenant between Arqiva and the Customer but merely that of the provider and hirer (respectively) of facilities and where appropriate services and the Customer makes no claim in this respect and further accepts that Arqiva will not be restrained by anything contained in a Site Sharing Licence from using a Station, the Arqiva owned Equipment Housing and any equipment (other than the Customer's Equipment) for the purposes of Arqiva's business or permitting others to use a Station and any structures and equipment (other than the Customer's Equipment) including inter alia the Mast/Antenna Support Structure and the Arqiva owned Equipment Housing and any cable trays, ducting and access ways as Arqiva may in its discretion decide.

10. NO ASSIGNMENT OR SUB-CONTRACTING

10.1 No assigning, subletting or sharing by Customer

Save for any fixed or floating charge arrangements that may be required under any funding provisions applicable to the Customer's business, (which are permissible), a Site Sharing Licence and the documents forming part of the Site Sharing Licence are personal to the Customer and save as aforesaid and as set out in General Condition 10.3 below (*Exception for additional Electronic Communications Services and Authorised Sub-Customers*), the Customer may not assign, charge, sub-licence or otherwise share a Site Sharing Licence or any of the rights granted under all or any part of it.

10.2 Limited assignment rights of Arqiva

Arqiva may only assign its obligations under a Site Sharing Licence in one or more of the following circumstances:

- (i) under any fixed or floating charge required under any funding arrangements applicable to its business;
 - (ii) to any successor to its transmitting business for any one or more Stations, provided such successor has agreed to accept and be responsible for the obligations on the part of Arqiva to the Customer contained in any Site Sharing Licences in so far as they apply to the relevant Stations and where such successor issues written confirmation of its acceptance of these obligations to the Customer;
 - (iii) to the Landlord of any one or more Stations in circumstances where Arqiva is unable to continue to provide the Customer with the rights granted under the Customer's relevant Site Sharing Licences relating to those Stations, but has obtained the agreement of the Landlord to do so in Arqiva's place and where the Landlord takes an assignment of and agrees to accept and be responsible for the obligations on the part of Arqiva contained in any of those Site Sharing Licences in so far as they apply to the relevant Stations and the Landlord issues written confirmation of its acceptance of these obligations to the Customer; or
 - (iv) to any Arqiva Group Company;
- provided that Arqiva also gives reasonable prior written notice to the Customer prior to effecting any assignment under General Conditions 10.2(ii) or (iii) above.

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10.3 Exception for additional Electronic Communications Services and Authorised Sub-Customers

Without prejudice to the generality of General Condition 10.1 (*No assigning, subletting or sharing by the Customer*), where the Customer is:

- (i) operating more than one Electronic Communications Service, on its own behalf, from the same antenna system comprised in the Customer's Equipment;
- (ii) operating a single Electronic Communications Service on behalf of an Authorised Sub-Customer, from the antenna system comprised in the Customer's Equipment;
- (iii) operating more than one Electronic Communications Service, on its own behalf and on behalf of an Authorised Sub-Customer from the same antenna system comprised in the Customer's Equipment; or
- (iv) sharing space inside the Customer's Moveable Equipment Cabin (or the Equipment Housing) with an Authorised Sub-Customer;

then and only where any of these arrangements have been specifically included as part of the Permitted Use, (and subject to the Customer's payment of any additional Charges associated with obtaining Arqiva's written consent to such additional arrangements and any additional requirements for such Authorised Sub-Customers to enter into ancillary site sharing contract terms and conditions with Arqiva) such additional Electronic Communications Service and/or Authorised Sub-Customers' rights will not be deemed a breach of General Condition 10 (*No Assignment or Sub-Contracting*).

11. INDEMNITY, INSURANCE AND LIMITATION OF LIABILITY

11.1 Mutual Liabilities

11.1.1 Subject to the remainder of this General Condition 11 (*Indemnity, Insurance and Limitation of Liability*) and, in addition to all other indemnities from the Customer to Arqiva set out in a Site Sharing Licence, the Customer will indemnify and keep indemnified Arqiva from and against all losses, liabilities, damages, costs and expenses (including court and legal costs assessed on a solicitor-client basis and any Charges payable but not yet paid) whether or not foreseeable arising under tort (including negligence) from the Customer's failure to comply with their obligations under a Site Sharing Licence or otherwise.

11.1.2 Subject always to General Condition 11.2 (*No Exclusion*), the aggregate liability of Arqiva resulting from or in connection with all and any claims under a Site Sharing Licence, whether arising under contract or by way of indemnity, but excluding the law of negligence) will be limited to an amount equal to the replacement value of the Customer's Equipment located at the Station in respect of which the claim is made. Liability for claims under the law of negligence will be limited to the Indemnity Sum for such Station. For the avoidance of doubt, Arqiva's aggregate liability for all claims under the aggregate number of Site Sharing Licences held by the Customer shall not exceed the lesser of:

- (i) an amount equal to the annual Charges paid by the Customer to Arqiva under the aggregate number of Site Sharing Licences held by the Customer during the preceding 12 months; or
- (ii) five million pounds (£5,000,000) in any year.

11.1.3 Subject always to General Condition 11.2 (*No Exclusion*), the liability of the Customer resulting from or in connection with a Site Sharing Licence (whether arising under contract or by way of indemnity, negligence or otherwise) will not exceed the lesser of the Indemnity Sum for any one claim or series of claims under the same cause arising at a Station, or five million pounds (£5,000,000) per Station per year.

11.1.4 Arqiva and the Customer each acknowledge that the limitations on their liability contained in this General

Condition 11 (*Indemnity Insurance and Limitation of Liability*), are reasonable and have been subject to commercial negotiation and the availability of insurance to both Parties.

11.2 No Exclusion

Neither Party, nor anything in a Site Sharing Licence will purport to:

- (i) exclude or limit its liability to the other Party for death or personal injury caused by its negligence; or
- (ii) exclude its liability to the other Party for fraud or fraudulent misrepresentation.

11.3 No Consequential Loss

Subject only to General Condition 11.2 (*No Exclusion*), and any obligation to pay the Charges and Additional Fees and any indemnity granted to Arqiva under these General Conditions or any Special Terms of a Site Sharing Licence, neither Party will be liable to the other under or in connection with a Site Sharing Licence (whether arising under contract negligence or otherwise) for:

- (i) loss of profits, revenues, business or goodwill; or
- (ii) indirect, special or consequential loss or damage.

11.4 Self Remedy

If the Customer fails to comply with any of its obligations under a Site Sharing Licence (including but not limited to General Condition 11 (*Indemnity Insurance and Limitation of Liability*)), then Arqiva may (without prejudice to its other rights or remedies) effect compliance on behalf of the Customer (but without being obliged so to do) in which event the cost of so doing will be recoverable by Arqiva from the Customer as a debt payable on demand.

11.5 Insurance

11.5.1 The Customer will be responsible for insuring the Customer's Equipment (including any of Moveable Equipment Cabins) against any accidental loss or damage.

11.5.2 In order to satisfy its obligations under General Condition 11.1 (*Mutual Liabilities*) the Customer is required to insure in a sum of not less than the Indemnity Sum, in respect of any one claim or series of claims under the same cause, and also against such public liability and other third party risks as may be necessary in connection with injury (including death) to any person or physical damage to any property (whether belonging to Arqiva, a Landlord or any third party) and resulting from the exercise by the Customer of the rights granted to it under a Site Sharing Licence and to produce a current copy of such policy or other suitable evidence of such insurance to Arqiva on request at any time during the Term.

11.6 No claims by either Party

Save as provided in General Condition 4.2 (*Minimum Period*) and subject to General Condition 11.2 (*No Exclusion*), no claim for loss or damages will arise out of:

- (i) any early termination of a Site Sharing Licence or any variation of a Site Sharing Licence where such termination or variation is in accordance with one or more of the General Conditions 12.2 to 12.4 (inclusive) (*In consequence of Force Majeure or consent, Without cause –individual Site Sharing Licences and Variations*) or in accordance with one or more of the General Conditions 12.6 (*Pre-conditions for relocation or transferring ownership of shareable Customer's Equipment to Arqiva*) or 12.7 (*Termination of a Site Sharing Licence for reasons beyond Arqiva's control*) or 12.8 (*Termination of a Site Sharing Licence by Arqiva for cause*); and
- (ii) any variation of any Site Sharing Licence in accordance with General Condition 12.5 (*Termination – individual Site Sharing Licences - due to relocation and replacement*) provided the provisions of General 12.6 (*Pre-conditions for relocation or transferring ownership of shareable Customer's Equipment to Arqiva*) are duly observed.

11.7 No claims by Customer

In addition to General Condition 11.6 (*No claims by either Party*), and subject to General Condition 11.2 (*No*

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Exclusion) and to the extent permitted by law, the Customer will also not be entitled to make any claim for loss or damages against Arqiva or a Landlord in the event that Arqiva exercise its rights in accordance with any of General Conditions 7.5 (*Access*), 8.1 (*In emergencies, to combat interference, in response to regulatory requirement, with consent, on insolvency or otherwise following termination*) or 8.4 (*To enable safe Working on the Mast/Antenna Support Structure*).

12. VARIATION AND/OR TERMINATION

By either Party:-

12.1 Material breach or insolvency

Either Party may terminate one or more Site Sharing Licences by delivering to the other Party a valid 7-day Termination Notice where:

- (i) there has been a material breach of all or materially all the defaulting Party's obligations under one or more Site Sharing Licences which have not been rectified within 30 days following receipt of an initial written notice being received by the defaulting Party requiring that Party to do so; or
- (ii) a third party has been appointed by the court as liquidator, provisional liquidator, administrator, administrative receiver, or receiver of such Party or over the whole or substantial part of its assets;
- (iii) the other Party has entered into a scheme of arrangement or composition with or for the benefit of creditors generally;
- (iv) the other Party has entered into any voluntary reorganisation, moratorium or other administration involving its creditors or any class of its creditors;
- (v) the other Party is being wound up (other than in the circumstances of a solvent voluntary winding-up by or involving such Party as part of a reorganisation or restructuring); or
- (vi) the other Party is becoming unable to pay its debts as and when they fall due or appears unable to pay its debts as and when they fall due within the meaning of section 123 of the Insolvency Act 1986.

12.2 In consequence of Force Majeure or consent

Arqiva or the Customer may terminate its obligations under a Site Sharing Licence by serving a valid 7-day Termination Notice in respect of the relevant Site Sharing Licence, where the event of Force Majeure substantially affects the Station to which the Site Sharing Licence relates and where either:

- (i) there is an interruption of the Permitted Use at that Station due to an event of Force Majeure which has continued for a period in excess of 3 months (and for the avoidance of doubt in such circumstances Arqiva will not be liable for any loss or damage to the Customer or others claiming through the Customer as a result of such interruption); or
- (ii) both the Customer and Arqiva consent to such early termination.

By the Customer:-

12.3 Without cause – individual Site Sharing Licences

Subject to the provisions contained in General Condition 4.2 (*Minimum Period*) the Customer may at any time following the end of the relevant Minimum Period issue a valid Termination Notice terminating a Site Sharing Licence by giving not less than twelve months' prior notice.

By both Parties

12.4 Variations

12.4.1 Save as specifically permitted in General Condition 8 (*Reducing Electricity Supply or Switching Off The Customer's Equipment*) and 12 (*Variation and/or Termination*) a Site Sharing Licence may only be varied by a document signed by authorised signatories of both of the Parties and annexed to the Site Sharing Licence.

12.4.2 Subject to General Condition 12.4.1, the Customer may request and Arqiva will not unreasonably withhold consent to a variation to its use of a Station under a Site Sharing Licence at any time during the subsistence of that Site Sharing Licence in accordance with the provisions of General Conditions 7.6.2 (*Changes to Customer's Equipment (including any changes to its Exposure Density)*) and 12.10 (*Recording Variations*), whereupon the Site Sharing Licence will continue in full operation and effect as amended/extended, provided any such variation will be subject to General Condition 4.2 (*Minimum Period*) in relation to Additional Fees payable by way of liquidated damages for early termination of Charges that would otherwise have been payable during the Minimum Period.

By Arqiva:-

12.5 Termination – individual Site Sharing Licences - due to relocation and replacement

Subject to the provisions of General Condition 12.6 (*Pre-conditions for Relocation or transferring ownership of shareable Customer's Equipment to Arqiva*), Arqiva may relocate any of the Customer's Equipment at any time to a different location on a Station or to a replacement Station by serving on the Customer a valid Termination Notice giving not less than 3 months prior notice and such modified location will be recorded by the issue of a revised location and elevation plans agreed between Arqiva and the Customer for this purpose and where required a replacement Site Sharing Licence issued pursuant to General Condition 12.10 (*Recording Variations*).

12.6 Pre-conditions for Relocation or transferring ownership of shareable Customer's Equipment to Arqiva

12.6.1 Relocation of the Customer's Equipment by Arqiva pursuant to General Condition 12.5 (*Termination – individual Site Sharing Licences - due to relocation and replacement*) will be in Arqiva's discretion and subject to:

- (i) any relocation of the Customer's Equipment on the Mast/Antenna Support Structure being restricted to relocation to an equivalent or better position on the Mast/Antenna Support Structure (or any replacement Mast/Antenna Support Structure provided for this purpose) and to Arqiva providing the Customer with copies of re-location and elevation plans showing the relocation arrangements to be made);
- (ii) Arqiva providing the Customer wherever practicable with temporary arrangements to enable reasonable continuity of service during relocation works and no resulting material diminution of the Customer's Electronic Communications Service following completion of the relocation;
- (iii) no resulting increases in the Charges in consequence; and
- (iv) any relocation works being performed by Arqiva, or its contractor and at Arqiva's expense;
- (v) any remaining Minimum Period obligations transferring to the revised location and any substitute Site Sharing Licence.

12.6.2 Notwithstanding the provision contained in General Condition 4.2 (*Minimum Period*), where the Customer and a third party wish to hold separate and distinct surviving contractual rights to share Customer Equipment (including antennas) at a Station, (other than in any permitted relationship of Customer and Authorised Sub-Customer, where the Customer retains sole ownership of Customer's Equipment), at any time during the Term, then and in such circumstances, Arqiva may be willing to:

- (i) in relation to any proposed new shareable Customer Equipment, provide that equipment at Arqiva's expense; to be owned by Arqiva and to form part of the Station facilities to be made available to the Customer at an agreed charging rate, and Arqiva will enter into additional service and maintenance obligations with the Customer (and the said third party) on terms

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(including financial terms) to be agreed in relation to provision, specification, maintenance, repair, replacement and (where applicable) service availability of such shared equipment; or

- (ii) (a) in relation to existing Customer's Equipment capable of being used or otherwise adapted for shared use, accept a transfer of ownership of such existing Customer's Equipment from the Customer (at a nominal fee) so that the said equipment can be owned, provided and maintained by Arqiva (or adapted as necessary by Arqiva to enable it to be so provided and maintained) for shared use as part of the Station facilities, and which equipment will be made available by Arqiva to the Customer under a Site Sharing Licence, (at an agreed discounted charging rate) but otherwise substantially on the same terms and conditions as those contained in a Site Sharing Licence, and Arqiva will also enter into additional service and maintenance obligations with the Customer (and with the said third party) on terms (including financial terms) to be agreed in relation to its maintenance, repair, replacement and service availability; and
- (b) in relation to existing Customer's Equipment only and where applicable, permit termination of the Customer's existing Site Sharing Licence without triggering any payment of Charges due at the Station for early termination prior to the expiry of any Minimum Period; and
- (iii) the provisions of the new/replacement Site Sharing Licences to be entered into by the Customer and the third party confirming the said equipment is part of the Station's shareable facilities will also include an agreed Minimum Period and the alternative Charges applicable for the said equipment's shared use (including any discount rates).

12.6.3 Notwithstanding the provision contained in General Condition 4.2 (*Minimum Period*), where the Customer wishes to outsource the supply and provisioning of any Customer Equipment to Arqiva at any time during the Term and where Arqiva is willing to do so, then subject to Arqiva and the Customer reaching agreement on financial terms, Arqiva will enter into additional supply and service obligations with the Customer in relation to the said outsourced Customer Equipment and Arqiva will also permit termination of the Customer's existing Site Sharing Licence without triggering any payment of an Additional Fee for early termination prior to the expiry of any Minimum Period (as provided under General Condition 4.2 (*Minimum Period*)), provided the Customer has entered into a replacement contract with Arqiva for Arqiva's provisioning of services to the Customer utilising the said outsourced Customer Equipment.

12.7 Termination of a Site Sharing Licence for reasons beyond Arqiva's control

Notwithstanding any Special Conditions, Arqiva may terminate or modify individual Site Sharing Licences on serving on the Customer a valid Termination Notice giving not less than six months prior notice where Arqiva's ability to continue a Station Licence (or more than one Site Sharing Licence where a Termination Notice is for more than one Station) is prevented by an event beyond the reasonable control of Arqiva, which will include circumstances where Arqiva is willing but prevented by a third party (other than as a consequence of any fault on the part of Arqiva) from contractually renewing its rights to continue to provide a Station for the unexpired remainder of the Term, and/or where renewal is only available on unreasonable terms.

12.8 Termination of a Site Sharing Licence by Arqiva for cause

Arqiva may terminate a Site Sharing Licence on serving on the Customer a valid immediate Termination Notice, (and

without prejudice to any right of action or remedy of Arqiva in respect of antecedent breach by the Customer of any of the obligations imposed on the Customer under a Site Sharing Licence):

- (a) where any planning or other consent or licence (including but not limited to the Customer's Licence) for the Customer's Equipment is revoked;
- (b) if the Customer permits any distress to be levied on the Customer's Equipment; or
- (c) in the case of any payment to be made to Arqiva by the Customer under a Site Sharing Licence, such payment remains in arrears and unpaid following the Due Date and where Arqiva has given written notice to the Customer that the Customer's Equipment will be switched off and the relevant Site Sharing Licence and rights associated with it terminated unless Arqiva receives the outstanding payment together with Interest within 14 days of the date of such written notice and that period of 14 days has expired without payment having been received by Arqiva.

12.9 Switch-off and removal rights

If Arqiva exercises its rights under General Conditions 12.1 or 12.8 Arqiva may without the Customer's consent also:

- (i) switch off the Customer's Equipment and make arrangements with the Customer for the removal of the Customer's Equipment from a Station as provided in General Condition 12.11 (*Removal of Customer's Equipment*), or if the Customer does not comply with such arrangements to otherwise remove the Customer's Equipment; and
- (ii) determine the Customer's rights under the relevant Site Sharing Licence; without incurring any liability to the Customer for the results of such acts and the Customer will indemnify Arqiva against any loss, liability or claim it may incur as a result of such actions.

12.10 Recording Variations

Subject to General Condition 12.4 (*Variations*), any variation to a Site Sharing Licence (including any variations or additions to Customer's Equipment or variation in the Charges), will be recorded:

- (i) in the case of a review of the Charges under General Condition 4.1 (Review of the Charges) by a written endorsement signed by both Parties to be attached to the relevant Site Sharing Licence;
- (ii) in the case of facilities required at an additional Station; by the issue of a new Site Sharing Licence signed and dated by the Parties;
- (iii) in the case of the variation of any of the terms in an existing Site Sharing Licence (other than as a result of a review of the Charges under General Condition 4.1 (Review of the Charges)), by a replacement Site Sharing Licence signed and dated by the Parties together with an endorsement on the existing Site Sharing Licence cancelling it with effect from the date of the replacement Site Sharing Licence; and
- (iv) in the case of the removal of a Station; by service of a valid Termination Notice in accordance with the provisions of General Conditions 12 (*Variation and/or Termination*), together with an endorsement on the existing Site Sharing Licence cancelling it with effect from the date of the expiry of the Termination Notice.

12.11 Removal of Customer's Equipment

Unless relieved from this obligation in writing by Arqiva, the Customer will wherever practicable, commence not later than 30 days prior to the end or sooner determination of the Term (and otherwise procure the completion on or prior to the end of the notice period in any valid Termination Notice), of the removal of all the Customer's Equipment from the relevant Station (at its own cost) including any remedial works necessary to such part or parts of a Station affected by such removal and re-instate them to such reasonably similar condition as they were in immediately prior to the installation of the Customer's Equipment.

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Unless otherwise agreed by the Parties such removal and re-instatement works will be carried out by Arqiva at the Customer's expense, or if Arqiva permits by other Approved Suppliers/Contractors, provided where such works are carried out by Arqiva, the Customer shall pay Arqiva's reasonable Additional Fees for carrying out such removal and reinstatement works, such Additional Fees to be treated as and recoverable as a debt for this purpose.

13. FURTHER OBLIGATIONS OF ARQIVA

13.1 Arqiva will:

- 13.1.1 maintain in reasonable repair and condition the Mast/Antenna Support Structure and the exterior and structure of any Arqiva owned Equipment Housing (for the avoidance of doubt this will not include responsibility for any Customer's Equipment including any Movable Equipment Cabins) during the Term;
- 13.1.2 use all reasonable endeavours to prevent any equipment located at a Station and under Arqiva's control from causing any interference to the Customer's Equipment;
- 13.1.3 be responsible for insuring its Mast/Antenna Support Structures and any other Arqiva equipment at a Station against any accidental loss or damage;
- 13.1.4 be responsible for keeping the keys provided to it by the Customer for the Customer's Moveable Equipment Cabins (pursuant to the Customer's obligations under General Condition 7.3 (*Customer's Equipment –Moveable Equipment Cabins*)), in a safe and secure location, only to be used by Arqiva in cases of emergency or to enable Arqiva to check that the Customer is complying with its obligations under a Site Sharing Licence and otherwise solely for the purpose of exercising its rights under a Site Sharing Licence;
- 13.1.5 in order to satisfy its obligations under General Condition 11.1 (*Mutual Liabilities*), to be responsible for insuring (in a sum not less than the Indemnity Sum), in respect of any one claim or series of claims under the same cause, and against such public liability and other third party risks as may be necessary in connection with injury (including death) to any person, or physical damage to any property (whether belonging to the Customer or any third party) caused by Arqiva at any Station and resulting from any breach of its obligations under a Site Sharing Licence and to provide suitable evidence of such insurance to the Customer on request at any time during the Term;
- 13.1.6 provide invoices in respect of all the Additional Fees described in General Condition 5 (*Additional Fees*), and any other Additional Fees including but not limited to Additional Fees for any supervision or other works performed by Arqiva pursuant to the provisions of General Conditions 7.4 (*Arqiva owned Equipment Housing*), 7.6.1 (*Working at Heights*), 7.6.2 (*Changes to Customer's Equipment including any changes to its Agreed Exposure Density*), 7.6.3 (*Alterations to a Station or other Arqiva property*), 7.6.8 (*Town and Country Planning*), 7.7.8 (*Compliance & Behaviour Indemnity*), 7.7.10 (*Negotiating with Utilities Providers - Wayleave Charges*), and 12.11 (*Removal of Customer's Equipment*) (where applicable) such Additional Fees to be calculated at the Arqiva schedule of rates agreed with the Customer for such services from time to time applicable to such Additional Fees or as otherwise provided under a Site Sharing Licence);
- 13.1.7 Arqiva will not be held in breach of its obligations under General Condition 13 (*Further obligations of Arqiva*) or any other of its obligations under a Site Sharing Licence to the extent it is prevented from performing them in consequence of an event of Force Majeure.

14. DISPUTES/NO SET-OFF

- 14.1 Any Charges or Additional Fees invoiced by Arqiva which the Customer wishes to dispute shall nevertheless be paid in full by the Customer on the Due Date and any overpaid

or underpaid amounts ascertained following any escalation or arbitration under General Condition 19 (*Escalation*) will be promptly paid or re-paid (as appropriate), together with Interest, calculated from the Due Date.

- 14.2 Neither the Customer nor Arqiva shall be entitled to set off any sums in any manner from payments due or sums received in respect of any claims under a Site Sharing Licence or any other agreement at any time.

15. VAT

- 15.1 The Charges and Additional Fees and any other sums payable and expressly referred to in a Site Sharing Licence are expressed exclusive of VAT.
- 15.2 The Customer acknowledges that Arqiva will be entitled to charge and recover VAT from the Customer in respect of the Charges and, where appropriate, any Additional Fees and any other payments due and payable under a Site Sharing Licence.

16. INTEREST

- 16.1 If payment of the Charges or any Additional Fees payable under a Site Sharing Licence are not made on the Due Date, then without prejudice to any other rights of Arqiva, the Customer agrees Arqiva may charge interest (calculated on a daily basis) on the outstanding amount from the Due Date until payment, at the higher of:-
 - (i) the interest rate provided under the Late Payment of Commercial Debts (Interest) Act 1998; and
 - (ii) a rate of 4% per annum above the base rates of the Royal Bank of Scotland plc in force from time to time during the period of the delay;(without prejudice to any other right or remedy of Arqiva under a Site Sharing Licence).

17. NOTICES

Notices (including Termination Notices) under a Site Sharing Licence will be in writing and will be well and sufficiently served if delivered by courier, or sent by 1st class post or facsimile to the Customer's registered office address and to Arqiva at: Crawley Court, Winchester, Hampshire SO21 2QA (for the attention of the Company Secretary) or to such other notice address as may be specified in the relevant Site Sharing Licence. Unless otherwise acknowledged by the recipient, service will be deemed to have taken place two working days after despatch. In respect of updates to the Structure and Rooftop Access Policy Rules, notices will be deemed to have been delivered on the date when such notice has been sent to the e-mail address of the Customer set out in the Site Sharing Licence.

18. INTELLECTUAL PROPERTY

- 18.1 The Parties undertake with each other that in complying with their respective obligations under a Site Sharing Licence, neither will infringe any rights (including intellectual property rights) of any third party.
- 18.2 Nothing in a Site Sharing Licence is intended to operate to transfer any intellectual property rights held by either of the Parties to the other. Without prejudice to the generality of the foregoing, Arqiva retains ownership in any intellectual property rights attributable to a Station and any Arqiva apparatus located at a Station and to any such rights created in any works and services performed by Arqiva or its employees or sub-contractors on behalf of the Customer, including any such rights in any deliverables provided as part of any installation works carried out for the Customer and the Customer agrees and confirms that it will not seek to directly or indirectly to claim or otherwise exploit any such intellectual property rights

19. ESCALATION

- 19.1 If any dispute or disagreement arises between Arqiva and the Customer relating to the legal interpretation of any of

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the provisions of a Site Sharing Licence, the Account Manager of the Party in dispute will identify such dispute or disagreement and will, save where otherwise expressly provided in a Site Sharing Licence, within 7 days of becoming aware of a dispute or disagreement, notify the other Party's Account Manager in writing specifying the nature of the dispute or disagreement ("**Matter in Dispute**").

19.2 Failing the Account Managers agreeing a solution in writing within 14 days of the notice referred to in General Condition 19.1, either Account Manager may refer the Matter in Dispute to the Senior Officers for resolution.

19.3 If the Senior Officers are unable to reach written agreement on the Matter in Dispute within 28 days of it being referred to them, then the Parties shall be at liberty to take whatever action they may deem appropriate under and in accordance with English law and the jurisdiction of the English courts will apply.

19.4 If an agreement is reached on the Matter in Dispute pursuant to this General Condition then each Party will promptly comply with its obligations as set out in the written record of such agreement.

20. NON-WAIVER AND SEVERABILITY

20.1 Non-Waiver

The failure of either Arqiva or the Customer to enforce the terms of a Site Sharing Licence will not constitute a waiver and will not affect the right to enforce any terms later.

20.2 Severability

The provisions of a Site Sharing Licence as governed by these General Conditions are severable and if for any reason any of these General Conditions should be or become void, unenforceable or invalid, the rest of these General Conditions will remain in full force and effect and the Parties will seek to agree additional or amended provisions to replace the void, unenforceable or invalid provision.

21. CONFIDENTIALITY

21.1 Mutual obligations

Subject to General Condition 21.2 (*Exceptions*), Arqiva and the Customer undertake that while a Site Sharing Licence is in force they and their employees and sub-contractors (including any Approved Suppliers/Contractors and Authorised Sub-Customers) will keep confidential and not disclose to any third party the contents of a Site Sharing Licence or any information which they have received from each other or which they have made available verbally or in writing in relation to their respective businesses or operations without the written consent of the other of the foregoing. Such confidentiality will include any technical, operational or financial information relating to the broadcasting business of Arqiva or pertaining to any contractual relationship between Arqiva and the Customer and/or any third party.

21.2 Exceptions

The obligations set out in General Condition 21.1 (*Mutual obligations*), will not apply to information:

- (i) which is or has become public knowledge (unless as a consequence of a breach of General Condition 21.1 (*Mutual obligations*));
- (ii) which either Party is required to disclose by order of a court or order of a competent authority;
- (iii) disclosed in order to maintain any listing on the London Stock Exchange or disclosed pursuant to obligations in the Customer Licence; and
- (iv) that Arqiva is required to disclose to any Landlord in relation to the calculation of Landlord Revenue Share or other similar payments to be made by Arqiva to any Landlord in order to enable the Permitted Use of a Station by the Customer, or in relation to any permitted assignment as described in General Condition 10.2 (*Limited Assignment Rights of Arqiva*).

22. EXCLUSION OF THIRD PARTY RIGHTS

Save for the indemnity granted to Landlords at General Condition 9.1 (*Not to exercise code powers and indemnification*), the Contracts (Rights of Third Parties) Act 1999 will not apply to a Site Sharing Licence and no rights and benefits expressly or implicitly conferred by it will be enforceable under that Act against Arqiva or the Customer by any other person.

23. GOVERNING LAW

23.1 England & Wales

A Site Sharing Licence in so far as it relates to a Station in England and Wales will be governed and construed in accordance with English law and the jurisdiction of the English courts will apply.

23.2 Scotland

Subject to General Condition 19 (*Escalation*), a Site Sharing Licence for a Station in Scotland will be governed and construed in accordance with the law of Scotland and the jurisdiction of the Scottish courts will apply.

23.3 Northern Ireland

Subject to General Condition 19 (*Escalation*), a Site Sharing Licence for a Station in Northern Ireland will be governed and construed in accordance with the law of Northern Ireland and the jurisdiction of the Northern Irish courts will apply.

23.4 Channel Islands

Subject to General Condition 19 (*Escalation*), a Site Sharing Licence for a Station on the Channel Islands will be governed and construed in accordance with the law applicable to either Jersey or Guernsey as appropriate and the jurisdiction of the local courts on Jersey or Guernsey will apply.

23.5 Isle of Man

Subject to General Condition 19 (*Escalation*), a Site Sharing Licence for a Station on the Isle of Man will be governed and construed in accordance with Manx law and the jurisdiction of the Manx courts will apply.

24. ENTIRE AGREEMENT

- 24.1 Save as expressly referenced herein, to the extent permissible by law and subject to General Condition 24.2, each Site Sharing Licence constitutes the entire understanding between the Parties relating to its subject matter and supersedes all prior representations, writings, negotiations or understandings with respect hereto
- 24.2 The Parties agree that nothing in General Condition 24.1 is intended to, or does, exclude any liability in respect of any fraudulent statements (including fraudulent pre-contractual misrepresentation).

[ENDS]

APPENDIX 1
GLOSSARY

"Access Permit Fee Date" means the date closest to the 1st January each year, and each anniversary of it;

"Access Permit Fees" means Additional Fees payable by the Customer for permits issued to the Customer by Arqiva pursuant to the provisions of the Structure and Rooftop Access Policy, in the amounts described either in the Structure and Rooftop Access Policy or in the Site Sharing Ratecard for the year in question, including any supervision, engineer attendance or rates for unsupervised access (where permitted) described therein and payable in accordance with General Condition 5.6 (*Additional Fees – Access Permit Fees*).

"Account Manager" means the person(s) so named in the Site Sharing Licence being either the Customer's Account Manager or Arqiva's Account Manager, as the context requires, or such alternative persons whose names will be notified by one Party to the other in writing from time to time;

"Additional Fees" means payments other than the Charges, which are also recoverable from the Customer under a Site Sharing Licence (including but not limited to fees for the provision of electricity supplies, Access Permit Fees, recovery of business rates, any sums paid in lieu of liquidated damages and Landlord Supplements);

"Agreed Drawing" means as built drawings included in the handover pack provided by Arqiva to the Customer on completion of the build works.

"Agreed Exposure Density" means the Exposure Density of the Customer's Equipment that Arqiva has confirmed to the Customer does not (on the date such confirmation is made) when taken in conjunction with existing telecommunications apparatus (including that of other users) located at the relevant Station, result in that Customer's Equipment causing the Station's aggregate Exposure Density to exceed the ICNIRP Limits;

Approved Suppliers/Contractors" means either:

- (i) Arqiva's employees or sub-contractors, or
- (ii) (where the context of the Agreement permits), persons other than Arqiva or its sub-contractors, and who are either:-
 - (a) employees of the Customer;
 - (b) employees of a Utilities Provider who has been employed as a contractor or supplier by the Customer; or
 - (c) any other contractors employed by the Customer whose names appears on a list previously reasonably approved by Arqiva,

all of who will be permitted access by Arqiva to a Station in accordance with the General Conditions subject to the requirements contained in the Structure and Rooftop Access Policy Rules;

"Arqiva" means Arqiva Limited (registered no 02487597);

"Arqiva Group Company" means any holding company or affiliated company directly or

indirectly owning or controlling, or owned or controlled by Arqiva Limited as such terms are defined by section 736 Companies Act 1985

"Authorised Sub-Customer" means any legal entity whom Arqiva expressly permit the Customer to provide an Electronic Communications Service via the Customer's Equipment or to otherwise share use of Customer's Equipment in accordance with the Permitted Use and the provisions of General Condition 10.3 (*Exception for additional Electronic Communications Services and Authorised Sub-Customers*);

"Broadcasting Acts" means the Broadcasting Act 1990 or the Broadcasting Act 1996, as applicable;

"CDM Regulations" means the Construction (Design and Management) Regulations 1994;

"Charges" means the site sharing licence fees payable by the Customer for the Customer's shared use of a Station for the Customer's Equipment identified in the relevant Site Sharing Licence and being used by the Customer for the Permitted Use, as such Charges are set out in a Site Sharing Licence (expressed as excluding VAT) and as such Charges may be varied from time to time in accordance with the terms of the Agreement;

"Charges Commencement Date" means the date so described in the relevant Site Sharing Licence;

"Customer" means the legal entity whose name appears on the Site Sharing Licence to which these General Conditions are applied;

"Customer's Equipment" means the electronic communications or telecommunications apparatus and any Moveable Equipment Cabins housing any such apparatus described in a Site Sharing Licence and normally comprising:

- (i) apparatus fixed and operated on the Mast/Antenna Support Structure at the height, bearing and frequencies set out in a Site Sharing Licence; and
- (ii) necessary associated exclusive equipment such as transmitters, receivers, racking and feeder cabling; and being apparatus owned or otherwise controlled by the Customer or an Authorised Sub-Customer; and
- (iii) any associated connectivity apparatus, supplied by the Customer or a Utilities Provider on its behalf;

all of which is installed or is intended to be installed at a Station (whether in a Moveable Equipment Cabin, Equipment Housing, on the Mast/Antenna Support Structure or elsewhere) for the Customer's (or Authorised Sub-Customer's) Permitted Use;

"Customer Licence" means:

- (i) a specific frequency licence or class licence under which the Customer is permitted to operate a telecommunications service (as such service is defined under the Telecommunications Act and Communications Act), or an electronic communications service (as such service

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may be defined under any legislation amending or re-enacting, repealing or replacing (in whole or part) the Telecommunications Act and Communications Act);

- (ii) any other statutory permission by virtue of which the Customer is permitted to lawfully utilise wireless frequencies for the Customer's Equipment (as such frequencies are also named in the relevant Site Sharing Licence); and
- (iii) any other additional statutory permissions required (including but not limited to any required under the Telecommunications Act and Communications Act, and Broadcasting Acts)

to enable the Customer to transmit one or more Electronic Communications Services via the Customer's Equipment in accordance with the terms of the Agreement;

"Communications Act" means the Communications Act 2003

"Due Date" means (unless expressly defined otherwise in the Site Sharing Licence):

- (i) in relation to the initial payment of the Charges the later of 30 days after the issue of an invoice and the Charges Commencement Date; and
- (ii) in relation to the initial payment of Additional Fees the later of 30 days after the issue of an invoice and the Effective Commencement Date; and
- (iii) in relation to subsequent payments of the Charges and any annually recurring Additional Fees the relevant Payment Date; and
- (iv) in relation to any Additional Fees that are not incurred annually or other payments due under the Agreement, 30 days after the issue of an invoice in respect of such Additional Fees or other payments;

"Effective Commencement Date" means the date set out in a Site Sharing Licence on which such Site Sharing Licence will come into force;

"Electronic Communications Service" means a single telecommunications, broadcast or other electronic communications service (including any service by or on behalf of a broadcaster, a public telecommunications operator or other wireless service provider) and being either:-

- (i) licensed under the Customer's Licence or otherwise provided within a single frequency allocation; or
- (ii) provided by an Authorised Sub-Customer within a single frequency allocation;

"Electricity Connection" means the connection of an electricity supply to a Station by way of a direct connection via a Statutory Undertaker to the local electricity company, a connection derived from a Landlord supply, or a generator (supplied at the Customer's cost) sufficient to satisfy the Customer's electricity requirements as specified under the prevailing terms and conditions of the Access Design and Build Agreement published on the website of Arqiva at www.arqiva.com.

"Electricity Connection and Supply Agreement" Arqiva's prevailing terms and conditions for the supply of electricity to the Customer's Equipment pursuant to Arqiva's standard Electricity Connection and Supply

Agreement published on the website of Arqiva at www.arqiva.com ;

"Equipment Housing" means any Arqiva owned existing or new building or other permanent non-moveable accommodation or structure (including all or any part of any Mast/Antenna Support Structure) located on the Station and used to accommodate any part of the Customer's Equipment and including any building or part of a building expressly described as Equipment Housing in the relevant Site Sharing Licence;

"Exposure Density" means the maximum electric field strength values in dB microvolts per meter converted to power density in watts per square metre for operational telecommunications apparatus as set out in the manufacturer's equipment specification for the relevant apparatus;

"Force Majeure" means in relation to either Party any event or circumstance which is beyond the reasonable control of the defaulting Party which will include but not be limited to Act of God, war, civil disturbance, statutory prohibition, Government intervention, order or act of Government or local/public authority, acts of terrorism, fire, lightning, flood, adverse propagation weather conditions, any other adverse weather conditions, prevention of access to any Station as a consequence of any local, regional or national restriction on movement in consequence of a health emergency, or otherwise to prevent the spread of any communicable disease, explosion, accident, theft, vandalism or national strike action, and which results in or causes the failure of that Party to perform any of its obligations under the Agreement but, for the avoidance of doubt, lack of funds will not be interpreted as an event or circumstance beyond the reasonable control of either Party;

"ICNIRP" means the International Commission for Non-Ionising Radiation Protection or any replacement or successor body responsible for setting UK industry accepted guidelines for maximum permitted power density of non-ionising radiation for public exposure;

"ICNIRP Limit" means a frequency dependent guideline established by ICNIRP that sets out a maximum permitted power density of non-ionising radiation for public exposure;

"Indemnity Sum" means the amount specified in the Site Sharing Licence or in the absence of such amount, five million pounds (£5,000,000);

"Interest" has the meaning set out in General Condition 16;

"Landlord" means any person or body corporate holding an interest in any Station site, including a reversionary interest as Arqiva's landlord, or as site owner where Arqiva is the nominated Station manager, or the beneficiary of any covenants affecting Arqiva's title to any Station site;

"Landlord Revenue Share" means a sum other than ground rent or other base rent paid by Arqiva to a Landlord pursuant to a contractual obligation and arising as a direct consequence of the Customer's Permitted Use of a Station;

"Landlord Supplements" means an Additional Fee referred to in a Site Sharing Licence and

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calculated in accordance with the provisions set out in that Site Sharing Licence and being a contribution payable by the Customer towards Landlord Revenue Share or other similar third party cost or expense incurred by Arqiva to enable the Permitted Use at that Station by the Customer;

"Mast/Antenna Support Structure" means any mast, tower, pole, rooftop, stub-mast, building elevation face mounting, head-frame, or other antenna support structure provided by Arqiva and located within or comprising a Station and upon which the antennas forming part of the Customer's Equipment (or shared use antennas provided by Arqiva as part of the shareable facilities at a Station) and associated Customer's Equipment are fixed;

"Moveable Equipment Cabin" has the meaning set out in General Condition 7.3.1;

"Minimum Period" means the period so described in a Site Sharing Licence and being the period during which Arqiva shall not be entitled to increase the Charges except as permitted under General Condition 4.1.1 (i), and the Customer shall only be entitled to exercise any of its early termination rights without cause, subject to the provisions contained in General Condition 4.2 (*Minimum Period*);

"Party" means either Arqiva or the Customer as the context admits and "Parties" shall mean both;

"Payment Date(s)" means the date(s) so described in the Site Sharing Licence;

"Permitted Use" means the permitted Electronic Communications Service use of the Customer's Equipment subject to any limitations on such use as may be set out in the Agreement;

"Planning & Community Relations Policies" set out in or referred to in Arqiva's Town Planning Protocols or any re-issued, replacement or modification to any of the above documents which has been provided by Arqiva to the Client as soon as practicable following its adoption by Arqiva.

"Review Date(s)" means the dates upon which indexation or other periodic review of the Charges and any annually recurring Additional Fees takes place, as such dates are so described in the Site Sharing Licence;

"RPI" means the UK retail prices index as published by the Office For National Statistics or, if that monthly figure should cease to be published, such other figure issued from time to time by central government in the UK in substitution of it;

"Senior Officer" means the persons so named in the Site Sharing Licence being either the Customer's Senior Officer or Arqiva's Senior Officer, as the context requires, or such alternative persons whose names will be notified by one Party to the other from time to time;

"Site Sharing Ratecard" means an annually replaceable document setting out the current year Charges to be applied for all or for a group of specified Stations and being a document issued and used by Arqiva to calculate the initial Charges to be included in a Site Sharing Licence in the year in which it is to be applied –

and which may also include annually fixed Additional Fees (including Access Permit Fees); **"Special Conditions"** means the provisions contained in the Site Sharing Licence, and the provisions contained in the Structure and Rooftop Access Policy and the Planning & Community Relations Policies which shall each be deemed Special Conditions supplementary to and taking precedence over these General Conditions, for the purpose of interpreting a Station Licence and these General Conditions;

"Station" means a site located on land and/or located on the exterior of a building, or building rooftop, that is owned, leased or licensed by Arqiva or managed by Arqiva on behalf of a Landlord and which has been developed with a Mast/Antenna Support Structure in order to provide a shareable facility for co-location of third party telecommunications, broadcast or other electronic communications equipment and ancillary facilities, as such station is named in a Site Sharing Licence;

"Site Sharing Licence" means a signed and countersigned licence for a Station in the agreed draft form set out as Appendix 4 to these General Conditions which shall incorporate Station specific additional terms and conditions, including a defined Term and the applicable Charges and any Station specific Special Conditions under which the Customer is licensed to install and retain the Customer's Equipment listed in that Site Sharing Licence for the Permitted Use;

"Structure and Rooftop Access Policy" means the document entitled Arqiva Access Regulations, Version 6, or any re-issue, replacement or modification to it made and adopted by Arqiva from time to time and governing its policy for issuing permits to the Approved Suppliers/Contractors to enable their access to certain parts of a Station and which requires their adherence to additional precautions and procedures for safe Working at Heights, a copy of any such re-issue, replacement or modification to be provided by Arqiva to the Client as soon as practicable following its adoption by Arqiva;

"Telecommunications Act" means the Telecommunications Act 1984;

"Term" means the term described in a Site Sharing Licence which will commence on the Effective Commencement Date and end by effluxion of time or pursuant to the variation/termination provisions contained in the Agreement and any reference in the General Conditions to the Term will be treated as a reference to the Term described in the Site Sharing Licence in which it appears;

"Termination Notice" means a written notice in the form appended to the Agreement served by either Party on the other in relation to a Station, pursuant to General Condition 12 (*Variation and/or Termination*) and which (subject as therein provided) may expire at any time during the Term for the relevant Station(s) without reference to the Effective Commencement Date;

"Utilities Provider" means a legal entity:

- (i) carrying on a statutory undertaking in relation to a water or electricity service; or

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(ii) permitted by statute to provide public wireline connectivity link service;

"VAT" means value added tax or any substitute form of taxation on the supply of goods and services;

"Working at Heights" means any works including but not limited to the installation, inspection, maintenance, repair, renewal or removal of any Customer's Equipment on any Mast/Antenna Support Structure

APPENDIX 2 - SAMPLE TERMINATION NOTICE

TERMINATION NOTICE

This Termination Notice is validly given where it is served pursuant to the terms of the Agreement and subject to the provisions concerning termination contained in the General Conditions. Service of this Notice does not affect the continuation of the Agreement insofar as it relates to any Station not subject to this Notice.

1. The Customer	Name: Address:
2. The Site Sharing Licence	Date:
3. This notice is served pursuant to the Site Sharing Licence and the period of notice is in accordance with the relevant General Conditions and where applicable any Special Conditions	(i) General Condition(s): (ii) Period of Notice:
4. This Notice relates to the Station named in this Notice;	Station Name (including Arqiva reference number);

<p>Served by : _____ (Authorised Signatory)</p> <p>Print Name of Signatory : _____</p> <p>Date of Despatch : _____</p>
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