

Terms & Conditions of Service

THE SCHEDULE for the supply of Fibre Broadband Service(s) (FTTC & FTTP)

1. Description of the Service

This Schedule and the MASTER SERVICES AGREEMENT FOR THE PROVISION OF TELEPHONY, COMMUNICATIONS, INFRASTRUCTURE SERVICES and INFORMATION TECHNOLOGY SERVICES and the Order together form the Contract for the Service(s) to be supplied by the Supplier to the Customer.

This Agreement is made between the Supplier (X.Communications Limited registered in England & Wales under number 02139995) and the Customer, as specified on the Supplier's Order form.

The Supplier agrees to provide Leased Line Services as specified under this Schedule.

Where a conflict exists between this Schedule and the Master Services Agreement, the Master Service Agreement will take precedence

2. Definitions

In this Agreement the following terms shall have the following meanings:

Access: means an internet or data or other form of electrical or optical transmission Circuit which is provided via a dedicated cable and used exclusively by you for the purposes of data transmission / Internet access.

Activation Date: means the date upon which the Supplier confirms to the Customer that the Leased Line Service is available for use.

"the Act"; means the Communications Act 2003;

Back-up services: means a Service of either a Backup Circuit or a Backup Broadband Service to be used if the Circuit has a fault.

Circuit: means a Leased Line circuit whether for the provision of Internet Access or Point to Point between Customer Sites or other locations.

"the Code"; means any Code of Practice relevant to the Services issued by PhonepayPlus or Ofcom as amended from time to time;

CPE: means Customer Premise Equipment which is located at the Customer site.

ECC: means Excess Construction Charges.

Excess Construction Charges: means additional charges to be applied to the Installation Charge to cover unexpected network or construction upgrades to enable the Circuit to be delivered to the Customer.

EFM: means Ethernet in the First Mile which is an internet connection provided over copper and can consist of multiple copper pairs and uses Ethernet protocols up to the customer premises.

EoFTTC Means Ethernet over Fibre to the Cabinet utilising a hybrid of copper and fibre. A phone line is supplied as part of this circuit.

GEA is the name BT Wholesale apply to the EoFTTC product. A phone line needs to be present in order to install this service.

Fault: means Service downtime (other than a Planned Outage) with a total loss of Service where it is not possible to transmit internet data or any other form of data or any other such fault (as agreed by the Supplier) that impairs the Service

Fibre Broadband; means the use of FTTC or FTTP Services to access the Internet

Fix Times: means the time taken to fix a fault on the circuit.

Fix time targets physical fault: means 5 hours from Customer reporting fault.

Fix time targets on infrastructure physical faults: 48 hours from Customer reporting fault.

FTTC; means Fibre to the Cabinet which provides a fibre optic connection to the Internet from the telephone exchange to your local street cabinet and a copper cable connection from the cabinet to your Premises.

FTTP; means Fibre to the Premises which provides an end-to-end fibre optic connection to the Internet from the telephone exchange to the Customer site

"Go Live Date"; means the date on which the Supplier notifies the Customer the Service or part thereof are ready for use or, if earlier, the date on which the Customer or any User first makes use of the Service of part thereof.

LAN; means Local Area Network

Leased Line circuit: means a Circuit used either to provide Dedicated Internet Access or Private point to point Leased Line Services between Customer sites.

Managed Leased Line Services: means the Supplier supplies the Circuit and a Router to enable the Customer to access the Internet. The Router is Managed by the Supplier 24/7 via remote monitoring and management by the Supplier Support department

Maintenance Window: means a period of time within a set time frame in which planned works to the Service will take place and have been identified to the Customer and where the Service may not be available for the period of the Maintenance Window.

Maintenance period: Means the start and the end time of the Maintenance Window.

NTE; means Network Termination Equipment

ONT; means Optical Network Termination unit

Outage Time: means the time duration of the Fault.

Planned Outage: means any Service downtime that has been prior notified to the Customer for the purposes of Maintenance or service changes.

Planned Maintenance: means Planned Outage.

Point-to-Point Leased Line Services means; a dedicated, private, fixed capacity circuit delivered point to point between Customer nominated sites. Point-to-Point Leased Line Services do not share infrastructure and will be delivered as a stand-alone Service which will not be monitored by the Supplier.

Protected Circuit: means a Leased Line Circuit delivered over multiple lines to deliver a resilient Service.

Response time: means the time taken to respond to a Customer-notified fault on the Circuit.

Response time target: means 1 hour from when the fault is reported.

Rights of Access approval: means the legal approval by the land or premises or Site owner of any route and any required construction or alterations to the land or premises or Site to allow the circuit to be installed.

Resilient Circuit: means a Leased Line Circuit delivered via more than 1 Circuit to provide a resilient service.

Service Provider: means any third party who the Supplier may use to provide the Service.

Set Up: means Installation or Install.

Service Credits: Service Credits to which the Customer may be entitled, in accordance with this Schedule, in relation to disruption to a Leased Line Service.

Site Survey: means the physical or logical surveying of the Customer site and proposed network infrastructure to be used to enable the installation of the Circuit and where any ECC charges may be advised.

SLA: means Service Level Agreement as described in this Schedule.

Terminating Device: means a router or other device that is used to terminate the Circuit. In the case of an Unmanaged Leased Line Services the demarcation point will be the NTE. In the case of a **Managed Leased Line Service** the demarcation line is the LAN side of the router

Target Go Live Date: means an indicative date agreed with the Customer for the commencement of Services as described on the Order.

Unmanaged Leased Line Services: means the Supplier supplies the Circuit and the Customer provides a Router to enable the Customer to access the Internet means; The Router is not managed by the Supplier and no remote monitoring and management by the Supplier Support department takes place

Unprotected Circuit: means a Leased Line Service delivered over a single Leased Line.

Wan; means Wide Area Network

Wayleave approval: means Rights of Access approval

3. Services

- 3.1. Subject to compliance by the Customer with its obligations under this agreement, the Supplier shall provide the Services to the Customer during the currency of the Contract for the supply of the Services as detailed on the Customer Order form with reasonable care and skill as expected of a competent communications provider.
- 3.2. All quotations made by the Supplier shall be deemed to be made subject to the terms and conditions of this Contract for the Supply of the Services and any required survey.

4. Acceptance of Customer Order pre-requisites

- 4.1 Before an Order becomes an Accepted Order the Supply needs to;
 - 4.1.1. check the FTTC or FTTP services are available in your area and;
 - 4.1.2. A BT PSTN line must be available at the Customer site.
 - 4.1.3. If the above is available the Supplier will need to confirm the PSTN line into the Customer Site is capable of carrying the Service and that the minimum line rate is available on the PSTN line and;
 - 4.1.4. Failure of either of the above points means the Service cannot be provided and no Customer Order for Service will be taken or where such order has been taken it will be cancelled immediately and the Customer informed and;
 - 4.1.5. any pre-survey charges may apply post cancellation of an order
 - 4.1.6. Ensure the Customer is made aware that once an FTTC or FTTP Service is installed certain previous services present on the PSTN line at the Customer Site may no longer work or may require reconfiguration. The services that could be impacted include but are not limited to Security Alarm systems running over a PSTN line & Fax Services.
 - 4.1.7. No Order shall be binding on the Supplier until that Order has been accepted by the Supplier in writing by notice to the Customer

5. Installation of FTTC and FTTP Services

- 5.1. The following procedure will apply;
 - 5.1.1. The Supplier will arrange an engineering site visit to install the Service with the Customer. Works will include external cabling outside the customer Site and at the Street Cabinet.
 - 5.1.2. An Internal visit is also required and the Customer must be present otherwise the site visit will be aborted and charges will apply for an abortive visit.

6. Additional Installation requirements for FTTC & FTTP Services

- 6.1. For FTTC Services;
 - 6.1.1. Supplier or Customer owned hardware may need to be installed at the Customer Site.
 - 6.1.2. The Customer will provide a suitable location for any hardware which is Supplied by the Supplier.
 - 6.1.3. The Customer will provide a suitable location for any hardware to be used for the Service that is the property of the Customer.
 - 6.1.4. Where required a suitable 13 amp power supply will be provided by the Customer at the expense of the Customer
 - 6.1.5. During the Installation of the FTTC service the Network Provider has to make changes to the PSTN line installed at the premises.
 - 6.1.6. These network changes can result in a loss of Service on the PSTN line for a period of time typically not exceeding 2 hours.
- 6.2. For FTTP Services;
 - 6.2.1. The Supplier or its 3rd Part provider will install an Optical Network Termination unit ("ONT")
 - 6.2.2. The ONT requires a 13amp power supply and the Customer agrees to provide at their own cost
 - 6.2.3. If the ONT is removed, damaged or power interrupted the FTTP Service will not work
 - 6.2.4. Where additional construction is required to fulfil the Installation of the FTTP. Excess Construction or cabling charges may apply.
 - 6.2.5. Any additional charges related to the installation of the FTTP will be notified to the Customer prior to installation.
 - 6.2.6. At the point of being notified of the additional charges the customer can decide whether to proceed and pay the additional charges or cancel and not pay the additional charges and the Customer Order will automatically be cancelled.
 - 6.2.7. Where multiple circuits have been ordered each Service is a separate Service and these terms and conditions apply to each Service separately.
 - 6.2.8. During the Installation of the FTTP Service any overhead cabling to the Customer Site may have to be upgraded. During the upgrade process the Customer may experience a loss of Service on the PSTN line and anything connected to it.
- 6.3. Fibre Broadband service is a rate limited service and the amount of upload and download bandwidth is dependent on a number of factors including but not limited to distance from the street cabinet and contention on the network by other users.

7. Installation Timescales

- 7.1. Installation Timescales are estimates and we do not guarantee the installation date will be met. You the Customer accept that there are 3rd Party's involved in supplying the Service and we the Supplier have no control over their scheduling and as such the Supplier accepts no liability howsoever arising due to late delivery dates.

8. Service Moves and Changes including Service Regrade

- 8.1. Any service that is moved during the period of the Minimum Period or any Renewal Period will result in termination charges for the remaining part of any such period. The Minimum Period for FTTC services is 12 months.
- 8.2. The service can be Regraded to provide higher levels of bandwidth if available.
- 8.3. Service Regrades can take up to 5 business days from acceptance of order
- 8.4. A Regrade may result in a new Minimum Period of 12 months from date of Regrade

9. Hardware

- 9.1. The Service is normally supplied with a Managed Router Service.
- 9.2. Where no Managed Router Service is purchased for the FTTC or FTTP Service the Customer accepts the Supplier will have no visibility of the router and therefore cannot provide a 24/7 management of the Service.
- 9.3. The Managed Router Service is only available when the Customer purchases a fully managed FTTC or FTTP Service where a Supplier router is provided and is monitored by the Suppliers systems on a 24/7 basis.

10. Fault Reporting

- 10.1. All faults must be reported to the Supplier as soon as reasonable possible. To report a fault the Customer must raise a fault by emailing support@xcomm.co.uk or calling our support line as advertised on our Web site at xcoomm.co.uk upon which a fault ticket will be created
- 10.2. The Supplier will use all reasonable efforts to resolve faults in a timely fashion that would be expected of a competent communications provider however, the customer accepts that the underlying service is provided by a 3rd party and therefore the Supplier is not in total control of the fault resolution timescales.
- 10.3. The Customer accepts that the Supplier does not have full control of the service and cannot be responsible for faults or delays in faults being fixed.

11. Additional information for FTTC and FTTP services

- 11.1. To ensure the Service works correctly the Service requires a fully working PSTN line supplied by BT;
 - 11.1.1. Failure of the PSTN Line will result in the Service not working.

- 11.1.2. Where the PSTN line for whatever reason ceases to work the FTTC services will not work and the Customer remains liable for the charges for the Services until the end of the Minimum or Renewal periods.
- 11.1.3. Should the PSTN line develop a fault it may create a fault with the FTTC circuit. Where the PSTN line is not supplied by the Supplier it is the Customers responsibility to get the PSTN line fixed asap. Until such time a fault or loss of service will continue until the PSTN line fault remedied.

12. Return of Supplier Equipment

- 12.1. Where hardware has been supplied to fulfil the Service and where this hardware is the property of the Supplier the Customer agrees to return the Hardware within a 14-day period after the end of the termination of the contract for whatever reason.

13. Additional Charges that may apply

- 13.1. Additional Charges may apply in the following instances
 - 13.1.1. Failed Engineering visit as a result of no access to the Customer Site.
 - 13.1.2. Repairing faults that are determined to not be part of the Service.
 - 13.1.3. Moves and changes i.e. moving the physical location of any terminating points and hardware
 - 13.1.4. Fixing customer generated faults or losses to any of the Hardware, cabling or Services.
 - 13.1.5. Damages as a result of electrical failure or surges (Lightning) or any other environmental hazards.

14. Service level agreement: FTTC and FTTP Service

The Supplier cannot guarantee the Service will be available 100% of the time. The Supplier network is the combination of the Supplier-operated equipment, servers, circuits, and other data transmission facilities plus Third Party Network Operators, Carriers (IP and Telephony), International Transit providers and many other organisations around the world that enable services i.e. calls and data packets to be delivered.

The Supplier's telephone support will be available during business hours and the Supplier will endeavour to get back to the Customer within one hour of a report being logged.

15. Term

- 15.1. This Contract for the supply of the Service shall subsist for the Minimum Period and may only be terminated by no less than sixty (60) Business Days' notice in writing by the Customer to the Supplier before the end of the Minimum Period or any Renewal Period.

16. Usage

- 16.1. Improper Use. The Customer shall use its reasonable endeavours to ensure that nothing is transmitted by or on behalf of the Customer or using the Customer's equipment through the Service or downloaded in violation of any UK or International law, regulation or treaty or the Supplier's Acceptable Use Policy or in breach of the intellectual property or other legal rights of any person. The Customer shall at all times ensure that such information and material complies with the laws of all applicable jurisdictions and shall keep the Supplier fully and effectively indemnified from and against all costs, claims, liabilities and demands relating to or arising from:
 - 16.1.1. any breach by the Customer of this clause or
 - 16.1.2. any criminal or civil legal action brought against the Supplier as a result of the actions of the. A breach of this clause and/or the Supplier's Acceptable Use Policy will also be grounds for the Supplier to terminate this Agreement without notice and with immediate effect, at the Supplier's discretion.
- 16.2. Offending Material. Without prejudice to any of its other rights, the Supplier shall be entitled to disable the Service or any other part of it immediately and without notice or to take such action as it may in its discretion think appropriate to ensure that any material which the Supplier in its reasonable opinion considers to offend is not capable of being transmitted or downloaded. The Supplier shall not however be obliged to take, or consider whether it should take, any such action. The Supplier shall inform the Customer of any such action and the reasons for the same.
- 16.3. Customer-Only Traffic. The right to use the Service is to the Customer, and those members of its staff and its guests (Guest WIFI) and others engaged by the Customer, to perform work for the Customer.

- 16.4. Bandwidth. The Customer acknowledges that the Supplier has no direct control over the availability of bandwidth over the entirety of the Internet and that while it will use such endeavours as the Supplier, in its absolute discretion, deems appropriate to facilitate the Service at all times, the Supplier shall not be responsible for delays caused by overuse or lack of such bandwidth.
- 16.5. The Customer agrees that any usage of the Service is controlled by the Customer and over usage resulting in poor performance will be the responsibility of the Customer. In such cases where continued overuse is present the Customer may ask the Supplier for a Service upgrade which may result in additional charges applying.

17. Support

- 17.1. During the period of the Contract the Supplier will provide support to the Customer during normal business hours and outside of normal business hours where "Out of Hours" support is noted on the Customer Order form.
- 17.2. Support will normally be via telephone or email but where it is deemed necessary and at the sole discretion of the Supplier an on-site engineering visit may be required to be undertaken by the Supplier. This visit may be undertaken by our 3rd Party supplier.
- 17.3. Where required the Supplier will liaise with any Network Service Provider or Carrier to ascertain the situation with regard any Service issue and feed this information back to the Customer.

18. Customer Equipment and Network

- 18.1. The Customer agrees that from the Start Date, it will have available all necessary Customer Equipment for which it is responsible, to allow effective installation and continuation of the Service.
- 18.2. It is the sole responsibility of the Customer and not the Supplier to provide security with respect to and of the Customer's facilities or the facilities of others. The Customer shall be solely responsible for maintaining user access security and network access security of the Service.
- 18.3. From time to time the Supplier or its Agents may interrupt the Service to maintain, update or enhance software Equipment or other aspects of the Service and/or the Supplier Network ("Maintenance Events"). the Supplier will, where possible, give the Customer a minimum of 2 Business Days advance notice of such events, and where possible will schedule Maintenance Events so as to cause minimum interruption of the Service. For the avoidance of doubt, it may not be possible to give such notice where interruption to the Service is necessary to deal with Incidents occurring in connection with the Service.
- 18.4. From time to time the Supplier or its Agents may interrupt the Service to carry out emergency maintenance to the Supplier or its Agents Network in order to maintain appropriate levels of service quality and to provide where possible minimum impact to the Service.
- 18.5. The Customer shall give all reasonable assistance to the Supplier to enable Maintenance Events to commence on the planned date and for them to be completed efficiently.
- 18.6. Any Maintenance Events which occur during Normal Business Hours, and which were not requested by the Customer, shall not be considered downtime for the purpose of service availability measurements.

19. Incident Reporting

- 19.1. On Managed FTTC and FTTP Services the Supplier shall supply monitoring and management 24 hours a day 7 days a week together with pre-emptive Incident reporting to the Customer whenever reasonably possible. In the event that any Incident is experience by the Customer that it has not been identified by the Supplier the Customer must submit an Incident Report to our support teams by telephone or via email.
- 19.2. On Un-Managed FTTC and FTTP Services the Supplier shall not supply monitoring and management. In the event that any Incident is experience by the Customer that it has not been identified by the Supplier the Customer must submit an Incident Report to our support teams by telephone or via email

- 19.3. All Incident Reports submitted by the Customer must provide a complete description of the Incident and any information reasonably requested by the Supplier.
- 19.4. If the Customer reports any Incident which requires urgent assistance outside of Normal Business Hours, the Customer must place a follow up call to the out of hours number in order to notify the Supplier engineer of the nature of the Incident.
- 19.5. All faults must be logged via the Supplier service desk portal.

20. Incident Response Timescales

- 20.1. The Supplier shall use best endeavours to notify the Customer of acceptance of the incident within 60 minutes of the support request being raised.
- 20.2. The Supplier will have an additional 60 minutes before an engineer will be assigned to look into the incident
- 20.3. the Supplier shall use best endeavours to make an update on an Incident available to the Customer via email within the response times specified.
- 20.4. The Customer understands and accepts that the Supplier is dependent on a third party for resolution of the Incident. In such circumstances, the Supplier shall use reasonable endeavours to eliminate or reduce the impact of the Incident on the Service by provision of a workaround, with permanent correction to follow if possible.

21. Clearance of Incidents

- 21.1. The Supplier will clear an Incident reported to the Supplier by the Customer in accordance with this Agreement
- 21.2. the Supplier has investigated the Incident and the Suppliers initial fault diagnostic testing indicates that the Incident is not found and/or is not the fault of the Supplier; and this has been confirmed by the Supplier with the Customer.
- 21.3. The fault has cleared.

22. Equipment and installation and site access

- 22.1. All Services Equipment remains the property of the Supplier at all times.
- 22.2. The Customer agrees to:
 - 22.2.1. prepare the Site and provide a suitable place, conditions, connection points and electricity for the Supplier or its Agents Equipment at the Site in accordance with the Suppliers reasonable instructions, if any; and
 - 22.2.2. obtain all necessary consents, including but not limited to, consents for any necessary alterations to buildings, permission to cross other people's land or permission to put the Suppliers/carrier Equipment on their property. The Customer accepts that the Supplier has no authority to proceed with the Installation of the Services until such permissions including but not limited to Wayleave / Rights of Access, Building Control have been officially granted and that any additional requirements including but not limited to Health and Safety reports or Asbestos Registers or other are all supplied, completed and agreed by the Supplier or its Agents or the Carrier prior to any installation work being undertaken.
 - 22.2.3. The Customer is responsible for the Supplier/ Carrier equipment and agrees to take reasonable steps to ensure that nobody (other than someone authorised by the Supplier) adds to, modifies or in any way interferes with it. The Customer will be liable to the Supplier for any loss of or damage to the Supplier or Carriers Equipment, except where such loss or damage is due to fair wear and tear or is caused by the Supplier or its Agents or the Carrier and on the Suppliers behalf.
 - 22.2.4. The Customer agrees to take reasonable steps to provide access to the Site including for the purpose of installation and use of the Supplier equipment at the Customer Site
 - 22.2.5. The Supplier agrees to observe the Customer reasonable Site safety and security requirements.

22.2.6. The Customer agrees to provide and agrees to take reasonable steps to ensure a suitable and safe working environment for the Supplier at Site.

22.2.7. It is the responsibility of the Customer to carry out any making good or decorator's work required as a result of the Installation of the Services

23. Domain Name and Network Number

23.1. The Supplier has no control over the availability of domain names and accepts no responsibility for the availability of any domain name.

23.2. The Supplier will provide IP Addresses as required and as available and in line with industry practice. However these IP addresses do not become the property of the Customer and upon the Contract for the Supply of the Service terminating the IP addresses supplied by the Supplier to the Customer will also terminate.

23.3. In respect of any actions taken by the Supplier pursuant to this clause 14, the Supplier may levy additional charges on the Customer as agreed in advance.

24. Historical Archive and backup

24.1. While the Supplier backs up its server computers as a regular part of its internal systems administration, the Supplier does not guarantee any storage or backup of Customer data unless such a Service has been requested on an Order form which has become an Accepted Order.

25. Service Pricing Renewal Period

25.1. The Supplier will increase the charges for FTTC Services by 5% for the 1st Renewal Period (which is normally at the end of a 12-month Minimum period term for FTTC Services and 15% which is normally at the end of a 36 month Minimum term for FTTP Services and any further subsequent Renewal Periods will also have an automatic price increase of 5% added to the charge for the Service. This increase is to cover the effects of inflation and the Suppliers Internal cost rises during the Minimum Period, any costs in additional or replacement equipment and any other costs that may from time to time arise to ensure the smooth running of the Service.

26. Additional Service Terms

26.1. To enable the Supplier to provide the Service, the Customer agrees to abide by the Supplier's prior agreed recommendations and specifications regarding the existence, configuration and maintenance of equipment used by the Customer (if any), the software used by the Customer and cabling required to integrate the Customer's host or local area network (LAN) into the Supplier's wide area network (WAN). The Customer's equipment must comply with the relevant portions of such recommendations and specifications. Such recommendations and specifications, if any, are given solely for the protection of the Supplier's equipment and not the Customer's and the Customer may not therefore rely upon such recommendations and specifications in the design, maintenance or service of the Customer's equipment or system.

26.2. The Customer is responsible for any of the Supplier equipment located at its premises and will only use the Supplier equipment and any associated software in accordance with any instructions and/or software license provided from time to time. The Customer may not add to, modify or in any way interfere with the Supplier equipment and the Supplier will not be liable for any repairs of the Supplier equipment other than those arising as a result of its normal and proper use. The Customer will insure any of the Supplier equipment located on its premises from all risks equal to the full replacement value of the equipment.

27. Support

27.1. The Supplier's helpdesk will provide reasonable telephone and email support on problems experienced by the Customer in relation to the Service. Requests for advice and assistance can be submitted to support@xcomm.co.uk

28. Service Level

28.1. The Customer accepts the Supply of the Service is via 3rd Party Network Operators and not the Supplier. Therefore, the Supplier has no control over the Supply of the Service and no visibility into the Network Operators Systems or Networks. The Supplier in the event of a fault occurring with the Service will use all reasonable endeavours to provide the Customer with feedback associated to the fault and an indication of the fault resolution timescales. The Customer accepts that the Supplier cannot be held responsible for any faults relating

to the Service.

29. Network Infrastructure

- 29.1. From time to time the Supplier or its Partners or 3rd party suppliers may upgrade their network infrastructure. This may require the Customer to upgrade some of its equipment if the Service is to be continued. In that event, the Customer agrees to make within thirty (30) days such reasonable upgrades to its hardware or software as the Supplier's technical staff may from time to time reasonably specify by written notice to the Customer. The Supplier shall not be responsible for degradation of or disruption to the Service if the Customer does not make the required upgrade.

30. Warranty

- 30.1. Where any Service includes a "burstable" element, the provision of the Service beyond the "bursting" bandwidth is subject to the Supplier or its partner and its suppliers having spare bandwidth available. All Services are subject to any "maximum traffic per service" limits.
- 30.2. The Customer is solely responsible for the use of any information or other material obtained through the Service. The Supplier specifically excludes any responsibility for the accuracy or quality of any information obtained through the Service, or that any other material obtained through the Service, may be used in any way by the Customer without infringing the rights of any third parties. The Customer further acknowledges that these matters are outside the control of the Supplier.