

MASTER SERVICES AGREEMENT TERMS & CONDITIONS

1. Definitions

The following terms used in these terms and conditions have the meanings given below:

“Acts” means the Wireless Telegraphy Act 2006, the Communications Act 2003 and any amendments or re-enactments to the same that may be made from time to time;
“Additional Order” means an additional order for Services under a Product Agreement;
“MCL” means Modern Communications Ltd;
“Credit Limit” means any financial limit applied to unpaid charges under the MSA and/or a Product Agreement as notified by MCL to the Customer from time to time;
“Customer” means the company, partnership, organisation or individual stated on the order form;
“Equipment” means any equipment which is supplied by or on behalf of MCL to the Customer or placed at the Customer’s premises for the purpose of providing any of the Services;
“Indemnify MCL against” means indemnify and keep MCL indemnified against all liabilities, claims, actions, proceedings, losses, damages and/or expenses which are brought against and/or incurred by MCL as a result (whether directly or indirectly) of any acts or omissions (whether by the Customer or otherwise) under any of clauses 4.2, 5.6 and 5.7;;
“MSA” means the Master Services Agreement (this document) between MCL and the Customer on these terms and conditions, including the order form;
“Product Agreement” means an agreement between MCL and the Customer for specific products or services that incorporates these terms and conditions in whole or in part. In the event of a conflict, the following (decreasing) order of precedence applies in a Product Agreement: pricing schedule, order form, continuation sheets, Additional Order, terms and conditions (including the terms and conditions of the MSA); “Services” means the provision of telecommunications services and/or products as detailed in a Product Agreement.
Terms in the singular include the plural and vice versa. Headings are for convenience only and do not affect interpretation.

2. The Services

2.1 Subject to these terms and conditions, MCL will take all reasonable steps to provide, operate and maintain the Services, and to restore the Services in the event of failure.
2.2 The Customer warrants that it has the right to enter into the MSA and each Product Agreement and that in doing so it does not breach any other agreement to which it is a party.

3. Duration

3.1 The MSA begins from the date of acceptance by MCL and continues unless and until each Product Agreement is terminated in accordance with its terms (whereupon the MSA will lapse) or the MSA is terminated by MCL under clause 11.
3.2 MCL reserves the right to cancel this agreement before it has begun to provide any of the Services.
3.3 For the avoidance of doubt, the minimum duration (see clause 3.4) of the Customer’s liability for all service or rental charges is calculated from the date of installation or commencement of the service (which may be later than the date on which this MSA is signed).
3.4 The minimum duration (except where otherwise stipulated in specific product terms under the relevant Product Agreement) is 36 months from the signing date of the MSA or the date on which the services commence (whichever is the later).
3.5 This agreement will automatically renew at the end of the minimum duration (whether 36 months or otherwise) unless written notice is provided to MCL on or before 90 days prior to the end of the minimum duration.
3.6 Cancellation of a payment schedule will not constitute cancellation or notice to cease any services

4. Use of the Services

4.1 The Customer agrees and undertakes:
4.1.1 to use the Services in accordance with the relevant provisions of the Acts, all other relevant laws and regulations from time to time, the terms of any licence between MCL and its suppliers, any direction of the Director General of Telecommunications or other competent authority, and any licence granted thereunder which governs the running of a telecommunications system by MCL, its suppliers or its sub-contractors;
4.1.2 to use the Services in accordance with these terms and conditions and the relevant Product Agreement, and such other conditions or instructions as may be notified to it in writing by MCL from time to time;
4.1.3 not to cause any attachments other than those approved for connection under the Acts to be connected to the Services;

4.1.4 not to use the Services as a means of communication for a purpose other than that for which the Services are provided and as may be set out from time to time in MCL’s Service literature. MCL will provide the Customer with as much notice as reasonably practicable should there be any change to MCL’s Service literature and MCL will not make any such change as would materially affect the parties’ obligations;
4.1.5 not to use the Services for receipt or transmission of any material or message which is intended to be a hoax call to emergency services or is of a defamatory, offensive, abusive, indecent, obscene, or menacing character, or which causes annoyance, inconvenience, or needless anxiety;
4.1.6 not to use the Services in a manner which constitutes a violation or infringement of the rights of any third party, or which is a breach of any statutory obligation or duty in contract, tort, or otherwise;
4.1.7 not to make or attempt to make fraudulent, illegal, unlawful, improper, or immoral use of the Services, nor to use or attempt to use the Services with intent to avoid the payment, in whole or in part, of any charges;
4.1.8 to maintain its telecommunications apparatus at all times during the term of the MSA in good working order and in compliance with the relevant standards or approvals for the time being designated under the Acts;
4.1.9 to provide MCL with all such information as it reasonably requests relating to the Customer’s telecommunications apparatus;
4.1.10 to immediately notify MCL of any fault with the Services upon becoming aware of it;
4.1.11 to keep secure any Customer password provided by MCL. The Customer acknowledges that any instruction given to MCL by a person possessing this password will be deemed to have been made by the Customer;
4.1.12 to implement adequate security measures to prevent unauthorised access to the Services, the Equipment, and the Customer’s equipment and premises; and
4.1.13 that it has no rights in any intellectual property rights in the Services, or arising in the Services as a result of their use, and to assign (and hereby does assign) any such rights to MCL.
4.2 The Customer shall Indemnify MCL against any fraud, negligence, or default by the Customer, or any breach of the MSA or a Product Agreement, or any improper or unauthorised use of the Services.

5. Equipment and repairs

5.1 The Equipment will at all times remain the property of MCL. The Customer will not let, sell, charge, assign, sub-license, or allow a third party to use the Equipment, and will not prejudice MCL’s rights in the Equipment in any way. MCL may substitute, renew, or add to the Equipment from time to time at its absolute discretion.
5.2 In the event that the Customer returns Equipment to MCL under the MSA or a Product Agreement, the Customer must obtain valid evidence of receipt of the Equipment by MCL. In the absence of such evidence, the Customer accepts that it will remain liable for the Equipment.
5.3 Equipment must be surrendered in re-saleable condition, subject to reasonable wear and tear, together with all manuals and packaging, upon termination of the relevant Product Agreement. Where the Customer fails to surrender the Equipment, the Customer grants MCL and its agents an irrevocable licence at any time to retrieve the Equipment directly from the Customer’s premises. If MCL fails to recover the Equipment it may, at its option, invoice the Customer for a sum equal to the original cost of the Equipment together with any costs reasonably incurred by MCL under this clause 5.3.
5.4 Time will not be of the essence in any delivery, repair, installation, maintenance, or other work carried out by MCL under a Product Agreement or the MSA, and any specified dates are estimates only. MCL accepts no liability for any failure to meet the relevant date.
5.5 Subject to the other terms of this clause 5, MCL (or its authorised representative) will, during MCL’s working hours without charge, take all reasonable steps:
5.5.1 where necessary, to install the Equipment at the Customer’s premises; and
5.5.2 to carry out all repairs to the Equipment that are caused by reasonable wear and tear.
5.6 MCL will not be liable for any faults caused by, or repairs required as a result of, installation or programming carried out by any other person (including without limitation the Customer) and the Customer shall Indemnify MCL against the same.
5.7 The Customer will be responsible for the Equipment while it is in the Customer’s custody and will notify MCL immediately of any faults which occur, of any repairs which become necessary, and of any loss or damage to the Equipment. The Customer will insure the Equipment against loss or damage from all risks for an amount equal to the full replacement value of the Equipment, and will Indemnify MCL against any loss or damage to the Equipment.
5.8 The Customer will not repair, alter, modify, or maintain, or make any additions or attachments to or otherwise alter, the Equipment without the prior written consent of MCL, and will ensure that no other person does any of those things without such consent. The Customer will only use the Equipment in conjunction with the relevant

Services and will comply with any reasonable instructions given by MCL in relation to its use.

5.9 MCL will not be responsible for faults or necessary repairs arising from the Customer's breach of the MSA or a Product Agreement, or any circumstance referred to in clause 9.5.

5.10 If under the MSA or a Product Agreement MCL carries out repairs, maintenance, or other work, or requires access to the Customer's premises or the Services connection points, outside its normal working hours, MCL will be entitled to raise a reasonable charge.

5.11 The Customer will be responsible for obtaining and, where appropriate, paying for all necessary licences, consents, and approvals required by third parties for the installation and use of the Equipment.

5.12 The Customer warrants that any equipment supplied or used by the Customer in conjunction with the Equipment is in good working order and complies with all applicable legislation and standards.

6. Access to premises, information and assistance

6.1 The Customer will permit or obtain permission for MCL (and its authorised representatives) to have reasonable and safe access to the Customer's premises and the Services connection points. Such access may (on reasonable notice except in the case of emergency) be outside the Customer's normal working hours.

6.2 The Customer will provide MCL, free of charge, with all information and assistance reasonably required by MCL to perform its obligations under the MSA and each Product Agreement.

6.3 The Customer permits MCL to use information about the use of the Services by the Customer (including but not limited to the origin, destination, duration, route, and time of calls) in order to enable MCL to perform its obligations under the MSA and each Product Agreement, maintain or upgrade the Services, or produce statistics to assist MCL or MCL's suppliers in their network and business planning. MCL may also share such information with its suppliers for fraud prevention purposes.

7. Additional Orders placed by electronic mail

7.1 The Customer may place an Additional Order via electronic mail to the account specified by MCL from time to time. MCL will notify the Customer, which may be via electronic mail, if it accepts the Additional Order.

7.2 Each accepted Additional Order will be subject to, and form part of, the relevant Product Agreement.

7.3 MCL will have no obligation to confirm whether the electronic mail was validly sent by the Customer if it appears to originate from the Customer's Internet domain name.

8. Charges and payments

8.1 Subject to the rest of this clause 8, payment for the Services is due within fourteen (14) days of the date of the invoice. All charges must be paid in full without deduction, set-off, or withholding.

8.2 The Customer will be invoiced charges monthly in accordance with the relevant pricing schedule.

8.3 All sums referred to in the Product Agreement are exclusive of Value Added Tax and any taxes of a similar nature that may from time to time be introduced.

8.4 Usage charges payable will be calculated by reference to data recorded or logged by MCL and not by reference to any data recorded or logged by the Customer.

8.5 If MCL continues to provide the Services, at its sole discretion, where a receiver or administrator is appointed over any of the Customer's assets in accordance with clause 11.1.3, or if the Customer breaches any term of the MSA or a Product Agreement, MCL reserves the right to withdraw any discounts and charge the Customer at MCL's standard tariff sheet rates (available upon request) and to invoice the Customer for any discount previously applied.

8.6 MCL may ask for a deposit as reasonable security for payment in respect of the Services or additional services, which is to be paid to MCL by the Customer within seven (7) days of MCL's written request. The Customer may request the return of any deposit at the end of twelve (12) months from the date of payment of the deposit, but the decision to return any money prior to termination of the MSA is at the discretion of MCL.

8.7 MCL reserves the right to set off the deposit against any amount due and owing by the Customer to MCL under the MSA, a Product Agreement, or any other agreement between the parties.

8.8 If the Customer fails to pay any charges (in whole or in part) within twenty-eight (28) days of the invoice date, MCL reserves the right to charge interest at the rate of five per cent (5%) a year above the Barclays Bank plc base lending rate from time to time calculated from the invoice date until the date on which payment is made, whether before or after judgement.

8.9 MCL reserves the right to reclaim from the Customer all costs and expenses (including legal costs) reasonably incurred in the collection of overdue amounts from the Customer.

8.10 The Customer will not cancel any direct debit arrangement with MCL until all amounts payable under the MSA or a Product Agreement have been paid.

8.11 Without prejudice to any of MCL's other rights and remedies, MCL will be entitled to deduct from, or set-off against, any debts or other sums owed by MCL to the Customer, or any debts or other sums owed by the Customer to MCL. Without prejudice to the foregoing, such deduction or set-off will be allowable under any other agreements between MCL and the Customer (or any parent, subsidiary, or associated company of the Customer) and will continue to operate despite any receivership or fixed or floating charge. Without prejudice to the foregoing, the Customer will not dispose in any way (whether by assignment, charge, declaration of trust, or in any other manner without limitation) of all or any part of its interest in any debts or other sums owed by MCL without the prior written approval of MCL, and any purported disposal without such consent will be void.

8.12 MCL may arrange for invoices to be issued by a third party on its behalf and these will be binding on the Customer. The Customer will discharge its liability to MCL in respect of such invoices by paying them in full.

9. Limitation of liability

9.1 Except as expressly provided in the MSA or a Product Agreement, all warranties, conditions, or other terms (whether expressed or implied by statute or common law or otherwise) as to the quality of the Services or their fitness for any particular purpose are hereby excluded to the fullest extent permitted by law.

9.2 MCL will not be liable for any loss (whether direct or indirect) of profit, revenue, business opportunity, or anticipated savings, nor for loss or destruction of data or files, nor for any indirect or consequential costs, claims, damages, or expenses arising out of any negligent or tortious act or omission or any breach of contract or statutory duty.

9.3 Nothing in the MSA or a Product Agreement has the effect of excluding or restricting the liability of MCL (and its employees, agents, or sub-contractors) for death or personal injury resulting from its negligence or that of its employees, agents, or sub-contractors, or for fraud.

9.4 MCL will not be liable for any cost arising from fraudulent use of the Services, and the Customer will be liable for any costs relating to any use of the Services (including without limitation telephone calls) either from or within the Customer's premises or via external means.

9.5 MCL will not be liable for any loss, damage, cost, expense, downtime, or service credit relating to anything that MCL cannot reasonably control, including without limitation (i) acts of God, (ii) weather, flood, drought, lightning, or fire, (iii) failure or shortage of power supplies, (iv) civil disorder, war, military operation, or national or local emergency, (v) acts or omissions of government, highway authorities, other public telecommunication operators, or other competent authorities, (vi) acts or omissions of MCL's suppliers, (vii) network, software, facilities, or other equipment failures, errors, or incompatibilities, (viii) industrial disputes of any kind, (ix) denial of service attacks, hacking, spamming, viruses, or other hostile computer programs, or (x) acts or omissions of any person or body for whom MCL is not responsible (including without limitation the Customer or users of the Services), in all cases whether caused within or outside the United Kingdom.

9.6 Subject to clause 9.3, MCL's (including its employees, agents, or sub-contractors) total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution, or otherwise, arising in connection with the performance or contemplated performance of a Product Agreement or the MSA will be limited to the higher of either twenty-five thousand pounds (£25,000), or a sum equal to the Customer's aggregate charges paid to MCL in the preceding twelve month period, in respect of any one incident or series of connected incidents, and five hundred thousand pounds (£500,000) in the aggregate.

9.7 Subject to clause 9.3, any service credit specified in the Product Agreement is the Customer's sole remedy for and is in full and final settlement of the relevant failure to provide the Service.

10. Suspension of Services

10.1 MCL may, where reasonable, from time to time and without notice suspend the Services and suspend performance of its obligations under the MSA or a Product Agreement or any other agreement between MCL and the Customer (including any parent, subsidiary, or associated company of the Customer) in any of the following circumstances without liability:

10.1.1 if MCL is obliged to comply with an order, instruction or request of government, an emergency services organisation, or other competent administrative authority;

10.1.2 during any technical failure, modification, repair, testing, or maintenance of the telecommunications network or other equipment (including Equipment) by which the Services are provided, or in the case of emergency;

10.1.3 if the operation of the telecommunications network is suspended or if the provision of the Services to MCL is interrupted or suspended for any reason;

10.1.4 if MCL reasonably believes that the Customer (or any parent, subsidiary or associated company of the Customer) will not, or is unable to, make any payment which is due or is to fall due to MCL under the MSA, a Product Agreement, or any other agreement between MCL and the Customer (including any parent, subsidiary, or associated company of the Customer); or

10.1.5 a Credit Limit is exceeded in respect of the relevant Services.

10.2 The Customer will reimburse MCL for all reasonable costs and expenses incurred by the implementation of any suspension of the Services under the MSA or a Product Agreement or by the recommencement of the Services following their suspension, and will remain liable for any applicable charges for the duration of any such suspension.

10.3 MCL will not be liable to the Customer for any charges incurred by the Customer for the use of other telecommunications services whether provided by MCL or any other person during any period of suspension of the Services under the MSA or a Product Agreement.

11. Suspension and termination

11.1 Without prejudice to any other claims or remedies which MCL may have against the Customer, MCL may suspend performance of its obligations under, or terminate, the MSA, a Product Agreement, or any other agreement between MCL and the Customer (including any parent, subsidiary, or associated company of the Customer) by giving notice to the Customer with immediate effect in any of the following circumstances:

11.1.1 if the Customer fails to comply with the terms of the MSA, or of a Product Agreement, or with any reasonable instruction issued by MCL, after being given written notice of its failure to comply (including but not limited to failure to pay any sums due);

11.1.2 if the Customer ceases to carry on business or is or becomes unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

11.1.3 if the Customer makes or offers to make any arrangement or composition (including any voluntary arrangement) with any one or more of its creditors, or commits any act or acts of bankruptcy, or if any petition or receiving order in bankruptcy is presented or made against the Customer, or if any resolution or petition to wind up the Customer is issued or passed or presented (other than for reconstruction or amalgamation), or if a receiver is appointed over any of the Customer's assets;

11.1.4 if sums are overdue to MCL under the MSA, a Product Agreement, or any other agreement between MCL and the Customer (including any parent, subsidiary, or associated company of the Customer);

11.1.5 if there is a change of control or ownership of the Customer;

11.1.6 if the performance of the MSA or a Product Agreement is prevented in circumstances beyond MCL's reasonable control as detailed in clause 9.5;

11.1.7 if the Customer does or allows to be done anything which in MCL's opinion will or may have the effect of jeopardising the operation of the Services or the telecommunications network;

11.1.8 if, in the reasonable opinion of MCL, it suspects that the Services are being used for any illegal, improper, immoral, fraudulent, or unlawful purpose, or in a manner prejudicial to the interests of the Customer or MCL, or the Customer acts in a threatening or abusive manner;

11.1.9 if any licence or permission to operate or use the telecommunications network or any part of it is revoked or terminated for any reason;

11.1.10 if the operation of the telecommunications network is terminated or if the provision of the Services to MCL is discontinued for any reason;

11.1.11 if any information supplied to MCL by the Customer is false or misleading; or

11.1.12 if the Customer's billing falls below ten pounds sterling (£10) per month per account as connected under the MSA or a Product Agreement, or if no traffic is carried for a period of one hundred (100) consecutive days.

11.2 MCL may require an acceptable assurance from the Customer that there will be no further contravention prior to the ending (at MCL's absolute discretion) of any suspension.

11.3 Despite termination of the MSA or a Product Agreement, the Customer will be liable for any call charges, line rental, and other charges incurred in the event of the Customer's continued use of the Services after the date of termination.

11.4 Termination of a Product Agreement or the MSA for any reason will be without prejudice to the rights of either party accrued as at the date of termination.

11.5 Upon termination of a Product Agreement in whole or in part, the Customer will pay MCL on demand all sums due to MCL under the Product Agreement.

12. Assignment

12.1 MCL may at any time assign its rights and obligations under the MSA or a Product Agreement to any third party.

12.2 The Customer will not (without the prior written consent of MCL) assign, transfer, or delegate or otherwise deal with all or any of its rights and obligations under the MSA or a Product Agreement.

13. Variation

13.1 MCL may vary all or any of its charges by giving the Customer written notice.

13.2 MCL may vary the conditions of the MSA or a Product Agreement to take account of the requirements of new legislation, statutory instruments, government regulations, licences, or similar matters provided that the Customer is notified of any such variation.

13.3 If MCL provides the Customer with a revised version of MCL's terms and conditions of the MSA or a Product Agreement, together with a notice stating when such revised terms and conditions will come into force, and the Customer continues to make use of the Services after such date, the Customer will be deemed to have accepted such revised terms with effect from such date and such revised terms and conditions will be deemed to constitute part of the MSA or the Product Agreement (as appropriate) in place of the previous terms and conditions.

13.4 Any other variation to the MSA or a Product Agreement will be in writing and signed by a duly authorised representative of each party.

14. Data protection

14.1 The Customer acknowledges and agrees that:

14.1.1 details of the Customer's name, address, and payment record may be submitted to a credit reference agency and that the agency may process this data; and

14.1.2 personal data relating to the Customer, its employees, customers, and users of the Services ("Data") will be processed by MCL only and despite any statutory disclosures which may be imposed upon MCL (such as a request under the Regulation of Investigatory Powers Act).

14.2 The Customer represents and warrants that it has obtained informed and express consent (in accordance with the Data Protection Act 1998 and subordinate legislation) to the processing of Data by MCL and its suppliers in accordance with this clause 14 from the Customer's employees, customers, and any users of the Services and that the Customer's details and Data are and will be at all times up-to-date, accurate, and complete.

15 Internet access and software

15.1 The Services may be used by the Customer to link into web sites, resources, and networks worldwide. MCL neither accepts responsibility for the content, services, or otherwise in respect of such links, nor endorses their content. The Customer agrees to comply with the terms and conditions and acceptable use policies of such web sites, resources, and networks.

15.2 Where Internet access forms part of the Services, the Customer further agrees that:

15.2.1 all the visual, textual, or other information, whether publicly posted or privately transmitted ("Information"), is the sole responsibility of the person from whom such Information originated;

15.2.2 the Customer is entirely responsible for all Information that is uploaded, downloaded, emailed or otherwise transmitted via Internet access;

15.2.3 all dealings with, and interests in, promotions, services, or merchants found by the Customer using the Services, unless otherwise stated, are solely between the Customer and the person with whom the Customer is dealing; and

15.2.4 access to secure financial transactions will be dependent on the type of hardware and the third party supplier of content.

15.3 MCL will not be liable for advice, instructions, or directions which it gives to the Customer where the Services are used to link into web sites, resources, or networks worldwide. Such advice, instructions, and directions may relate, without limitation, to configuration of the Services on hardware of the Customer.

15.4 Any software provided as part of the Service is the property of the licensor and (if no licence is provided in conjunction with the software) the Customer is granted a non-exclusive, non-transferable licence to use the software solely in conjunction with the relevant product. The Customer will not copy the software, make modifications to, or attempt to reverse engineer or decompile the software, except to the extent permitted by law, and will comply with the relevant licence.

16. Miscellaneous

16.1 Subject to clause 13.3, the Customer agrees that these terms and conditions, and the terms and conditions of a Product Agreement, govern the MSA and the Product Agreement between MCL and the Customer and supersede and replace any prior terms and conditions, oral or written, and all representations or communications between the parties relating to the subject matter of the MSA and the Product Agreement (except that nothing herein can limit or exclude either party's liability in fraudulent misrepresentation). The Customer acknowledges that no representation has been made by MCL or on behalf of MCL in relation to the Services which has induced the Customer to enter into its MSA or a Product Agreement.

16.2 In the event of any conflict between these terms and conditions and the terms and conditions of the Product Agreement prior to incorporation of these terms and conditions, the latter shall prevail.

16.3 Any notice given under the MSA or a Product Agreement will be in writing and will be served by delivering it personally or sending it: (a) by first class post or fax to MCL at Customer Services at MCL's registered office or fax 0844 967 7777, or (b) by first class post, fax, or e-mail to the Customer at any address of the Customer, unless otherwise notified by the relevant party. Any such notice will be deemed to have been received: (a) if delivered personally, at the time of delivery; (b) in the case of first class post, 48 hours from the date of posting; (c) in the case of fax, at the time of transmission and subject to receipt of the appropriate "clear" transmission report; (d) in the case of e-mail, at the time of transmission. The Customer will immediately notify MCL of any changes (such as a change of address) relevant to the provision of the Services.

16.4 Any concession or waiver allowed by MCL to the Customer will neither prevent MCL from exercising any of its rights nor prejudice MCL's rights to take any subsequent action.

16.5 If the Customer is entitled to give notice of termination under a Product Agreement, it may do so in writing and by means of registered post to MCL's commercial trading address.

16.6 If any provision (or part thereof) of the MSA or a Product Agreement is deemed to be invalid for any reason then the remainder shall be read as if the invalid provision (or part thereof) had to that extent been deleted, and the validity of the remaining provisions will not be affected.

16.7 Nothing in the MSA or a Product Agreement creates a partnership or joint venture between the parties, nor does the Customer have any authority to bind or commit MCL or to act as MCL's agent.

16.8 Except for MCL's employees, agents, sub-contractors, or suppliers, nothing in the MSA or a Product Agreement confers any rights or benefits on any third party under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

16.9 Any dispute under or arising out of the MSA or a Product Agreement may be referred to the Ombudsman for Telecommunications, or the recognised arbitration service.

16.10 The MSA and each Product Agreement are governed by English law and both parties agree to submit to the exclusive jurisdiction of the courts of England.