

## IP TELEPHONY SERVICES GENERAL TERMS AND CONDITIONS

### 1. Orders

- 1.1 These Service Terms apply to all contracts for the provision of the Services entered into by us. By submitting an Order Form you agree to deal with us on these Service Terms to the exclusion of any other terms and conditions, including those contained within or referenced on any purchase order or other document which you submit from time to time.
- 1.2 Each Order Form which you submit constitutes an offer by you to purchase the Services from us in accordance with these Service Terms and shall not be binding on us until we have accepted the Order Form in writing by way of an order confirmation, or if earlier, we have taken positive steps to perform the Services. Upon such acceptance by us in accordance with this clause 1.2 a contract for the Services between you and us shall arise incorporating these Service Terms (each an **Order**). Our acceptance of your Order Form is subject to you passing a UK credit check and you consent to our submitting your details to a credit reference agency for this purpose by submitting the Order Form.
- 1.3 If there is any inconsistency between these Service Terms and an Order Form, then the Order Form will take precedence followed by these Service Terms.
- 1.4 The Services are provided by us on the basis that you enter into the Order in the course of your business and use the Services strictly for your own business purposes. The Services are not available to consumers.
- 1.5 You may request Service Features from us at any time by placing an Order in accordance with these Service Terms.
- 1.6 You should not assume that if you purchase the Services from us on more than one occasion, these Service Terms will be the same for each purchase. You should periodically check these Service Terms for any changes.
- 1.7 You may request other or additional services from us at any time and we may agree to provide such additional services at our discretion. You should not assume, however, that the terms and conditions which apply to any such other or additional services will be identical to these Service Terms. You should always read the applicable terms and conditions carefully before placing an order for such other or additional services.

### 2. Length of each Order

- 2.1 Each Order for the Services shall start on the Activation Date and continue for the Minimum Term unless it is terminated earlier by you or us in accordance with the rights of termination set out in clauses 24 and 25.
- 2.2 After the Minimum Term has expired the Order will automatically continue until either you or we terminate it in accordance with the rights of termination set out in clauses 24 and 25.

### 3. Scope and set-up of each Order

- 3.1 We will set-up each Order in accordance with such standard policies, practices and timescales (including those of any Supplier) notified to you from time to time, and any particular requirement specifically agreed by us as set out in the Order.
- 3.2 We shall use our reasonable endeavours to activate the Services or any Service Features which are ordered by any agreed delivery date, provided always that any such

agreed date is an estimate and non-binding and we will not be responsible for any failure to meet such dates or timescales. Any dates provided to you by us (including any lead or provisioning timescales stated in the Customer Services Guide) are best estimates and for general guidance purposes only.

- 3.3 You shall have the right to access the Services for the number of Licenses specified in the Order. You acknowledge that one License is required for each Seat.
- 3.4 The provision of Access Connections is subject to any conditions and dependencies set out in these Service Terms. We may, acting reasonably, revoke our acceptance of any Order, if for any reason an Access Connection cannot be provided (at all or to the specification agreed) to any Premises, or a number cannot be ported, due to any such condition or dependency not being met or other unforeseen matter. You accept that this may not be discovered until we (or the Supplier) attempt to set-up the Access Connection.

### 4. Our obligations

- 4.1 We shall:
  - (a) provide the Services to you in accordance with the terms of the relevant Order, Good Industry Practice and all Applicable Law but you acknowledge that it is not possible to provide Services that are free from defect, fault or interruption and that we do not warrant or otherwise promise to provide the Services continuously or free from defects or faults and you accept that there may be technical limits relating to the Services as specified in these Service Terms;
  - (b) obtain and maintain all regulatory licences, certifications, permissions, consents and approvals required to supply the Services to you or, to the extent applicable, procure that the relevant Supplier does so;
  - (c) manage the porting of all numbers to be used in connection with the Services in compliance with all Applicable Law but you acknowledge that we shall have no obligation to port a telephone number if you have not complied with all Applicable Law regarding number porting;
  - (d) use reasonable endeavours to convey Emergency Calls in accordance with these Service Terms; and
  - (e) make a copy of the Customer Services Guide available to you (which, unless explicitly stated in these Service Terms as imposing binding obligations on you, is provided for information purposes only).

#### 4.2 We may, in our discretion:

- (a) provide the Services to you through a Supplier. We may change our Supplier at any time provided that the alternative shall in all material respects provide substantially the same or improved services. Any such substitution shall be carried out in accordance with the migration plan we agree with you and with a view to minimising the impact of any disruption to the Services during the transition; and
- (b) provide you with access to a Portal from time to time. You will use any such Portal for the purposes (such as placing and managing Orders) we (or an applicable Supplier) specify and strictly in accordance with all instructions, terms and

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conditions and guidance issued by us (or an applicable Supplier) from time to time. You acknowledge that access to a Portal may not be fault free or uninterrupted and that we will have no liability to you in respect of the provision, availability, use or otherwise of a Portal. You acknowledge that we may change the Portal or withdraw access to it at any time at our discretion.

### 5. Service Management

5.1 We expect your Call levels conveyed using the Services to be within normal levels. You accept that we may instigate network management control measures and/or limitations in the event abnormally high levels of Calls are conveyed using the Services but we will notify you as soon as reasonably practicable if we propose doing so.

5.2 We may:

- (a) change codes or numbers allocated to the Services in order to meet the national numbering requirements of an Authority and we shall notify you of any such changes as soon as reasonably practical;
- (b) take such action as we or a Supplier may determine is necessary (including blocking or restricting any Service Equipment, Customer Premises Equipment and/or other equipment from accessing the Services) in the event you are using the Services in a manner that is, or we reasonably believe may be, damaging to the Services. We will notify you as soon as reasonably practicable upon deciding to take, or becoming aware of any action being taken, under this clause 5.2(b); and
- (c) at your written request implement call barring to certain international destinations or impose credit limits on your account which shall only be lifted, at our discretion, following your written request.

### 6. Your obligations

6.1 You shall use the Services in accordance with each Order and any reasonable instructions which we give to you from time to time.

#### **Supply of information and co-operation**

6.2 You shall:

- (a) provide your complete and accurate contact details (including names, telephone numbers and physical addresses) and tell us immediately if any of your contact details change;
- (b) promptly supply all information we and/or a Supplier may reasonably request from time to time in respect of your use of the Services;
- (c) promptly report any defects, faults or failures of or with the Services which come to your attention;
- (d) give us reasonable notice of any significant increase in traffic across the Network which you reasonably anticipate is likely to arise from your proposed use of the Services; and
- (e) supply to us such information and do such acts and things as we may reasonably require to ensure that we and/or a Supplier are able to perform, and observe the requirements of the Communications Act 2003 and any other Applicable Law, and in particular in relation to the provision of a directory

information service relating to you which we and/or a Supplier cannot reasonably perform without the supply of such information and/or the doing of such acts and things by you.

#### **Your use of the Services**

6.3 Without prejudice to the generality of clause 6.1 you shall:

- (a) not make or permit any modifications to the Services without our prior written consent;
- (b) not use or attempt to use the Services, any Service Equipment, the Network or any other network, software or systems of ours, a Supplier or any other third party connected with or used in the provision of the Services, or any Customer Premises Equipment connected to the same in breach of the Acceptable Use Policy;
- (c) comply with:
  - (i) any requirements, guidelines, codes of practice and instructions which we issue or provide regarding location based services, adult content services and the protection of minors; and
  - (ii) all Applicable Law (including that relating to number porting);
- (d) not connect to the Network via any apparatus other than Customer Premises Equipment, nor permit such other apparatus to be connected to the Network; and
- (e) not use the Services outside the Territory without our prior written consent.

#### **What happens if you do not comply**

6.4 You acknowledge that the provision of the Services is dependent on the performance of your obligations in accordance with these Service Terms. Without limiting any other right or remedy we may have you acknowledge that if you do not comply with your obligations:

- (a) such non-compliance may result in a delay to the Order Commencement Date;
- (b) we may not be able to provide the Services to you in accordance with these Service Terms and we shall not have any responsibility for our failure to do so; and
- (c) we may be able to suspend or terminate the Services in accordance with these Services Terms.

### 7. Service Equipment

7.1 We and/or a Supplier shall deliver, install, test, maintain and/or replace any applicable Service Equipment at the relevant Premises in accordance with the applicable Order.

7.2 You shall:

- (a) provide all necessary consents, permissions, permits, licences and/or information together with such physical access to any Premises at all reasonable times we and/or a Supplier reasonably require from time to time in order to carry out our/its obligations and exercise our/its rights in relation to any Order, including:

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- (i) installation, inspection, maintenance, replacement, upgrade or removal of an Access Connection and any equipment associated with it; and
  - (ii) assistance with testing and other assistance which we reasonably require to perform the Services and any of our other obligations under these Service Terms;
- (b) provide a suitable and safe working environment at any Premises and we shall (and shall procure that any Suppliers shall comply) with all health and safety policies applicable to the relevant Premises and reasonably notified to us in advance;
- (c) provide a secure and uninterrupted electricity power supply (including, for the avoidance of doubt, an appropriate backup electricity power supply) as well as suitable accommodation and environmental conditions for the relevant Service Equipment where required;
- (d) be responsible for keeping the Service Equipment safe and secure at the relevant Premises without interference and take all steps reasonably necessary to ensure nobody (other than someone authorised by us) adds to or modifies it in any way;
- (e) use the Service Equipment in accordance with any written instructions we issue from time to time;
- (f) be liable for any loss or damage to the Service Equipment caused by your acts or omissions; and
- (g) ensure that no Service Equipment is removed from the relevant Premises without our prior written consent.
- 7.3 You acknowledge that any period of delay in providing us and/or a Supplier with access to any Premises or Service Equipment shall be excluded from any Service Level calculation.
- 8. Use of other Equipment**
- 8.1 Unless otherwise agreed in writing, we shall not be obliged to provide the Services on dedicated equipment.
- 8.2 You are responsible for providing, managing and maintaining the Customer Premises Equipment and shall pay any charges payable to, or incurred by us or a Supplier in relation to internal cabling needed to provide the Services to any Premises.
- 8.3 Any Customer Premises Equipment and/or other equipment connected (directly or indirectly) to or used with the Network or Services must:
- (a) be technically compatible with the Services. Only Approved Handsets may be used in conjunction with the Services;
  - (b) not harm the Services, any Service Equipment, the Network or any other network, software or systems of ours, a Supplier or any other third party used in the provision of the Services or another of our other customers' network or equipment; and
  - (c) be connected and used in accordance with any relevant instructions, standards, Applicable Law and safety and security procedures applicable to the use of such equipment. In particular you shall take all reasonable steps to configure such equipment in a way which prevents it from being used in the commission of criminal offences
- including the making of fraudulent or bad faith Calls.
- 9. Supply of Products**
- 9.1 You may order any Products from us from time to time. Purchase of those Products shall be subject to our Standard Terms of Sale or such other terms as notified to you by us at the time of purchase.
- 9.2 We offer a warranty in respect of the Products as indicated in our Product List set out in paragraph 5 of Schedule 1 for the Warranty Period, during which the remedies in our Standard Terms of Sale are available in respect of the relevant Products, subject to and in accordance with the terms set out therein.
- 10. Supply of Software**
- 10.1 You may, for the duration of the Order, access and use any Software we provide or otherwise make available to you, remotely and as an application service on a non-exclusive, non-sub-licensable, non-transferable basis and only as necessary for receipt of the Services in accordance with these Service Terms.
- 10.2 The rights granted in clause 10.1 are the only rights given to you in respect of the access and use of Software. You shall:
- (a) comply with all terms, restrictions and obligations relating to Software as set out in these Service Terms (including the Acceptable Use Policy and this clause 10); and
  - (b) use any Software of a Supplier or third party provided to you by us in accordance with the Supplier's or third party's standard terms notified to you in writing, and if so requested by a Supplier or third party, you shall sign any agreement containing reasonable terms relating to the use of such Software.
- 11. Service Levels**
- 11.1 We shall use reasonable endeavours to provide the Services in accordance with the Service Levels.
- 12. Provision of Support**
- 12.1 Where you have an enquiry regarding the Services or where there is an issue with the Services or a Service Fault, you may request, and we shall provide, Support, subject to these Service Terms.
- 12.2 We are not, save as otherwise provided in clause 12.4, obliged to provide Support in relation to Customer Premises Equipment, and in the event that we do so, we reserve the right to charge you at our rates as may apply from time to time in respect of such Support.
- 12.3 You shall promptly notify us of any Service Fault in accordance with the procedures as set out in the Customer Services Guide and provide such information as we may require to investigate the problem and any other assistance as set out in the Customer Services Guide.
- 12.4 We will investigate all Service Faults that are logged with us. If we discover that no fault can be found or such fault originates from Customer Premises Equipment, then save where we have supplied such Customer Premises Equipment (in which case the provisions of our Standard Terms of Sale shall apply), we reserve the right to charge you for the time, materials and expenses incurred in relation to the investigation (including for any

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site visits) at our rates as may apply from time to time in respect of such Support.

### 13. Accessing Emergency Services

13.1 In relation to Emergency Calls Access, you shall:

- (a) tell us if you will use, or are likely to use, more than a single network termination point or equivalent;
- (b) convey to us or a Supplier (as applicable) all Emergency Calls with full telephone number information (which may be used by the Emergency Services to call you) and allow us and a Supplier to use such telephone number information to ascertain the appropriate Emergency Services; and
- (c) in addition to the provision of information in accordance with clause 6.2(a) provide the name and installation address (including the post code) for each fixed network termination point or equivalent used. If you have nomadic applications that use more than one network termination point or equivalent the installation address is (until dynamic methods to update the address can be agreed) the address where the application is normally used. You will tell us immediately if any of this information changes.

### 14. Service Exclusions

14.1 You acknowledge that:

- (a) a Service Fault could be on the access circuit carrying the broadband connection or the network (MPLS, leased line etc.) which we will check in accordance with our terms and conditions which apply to such services if we provide these connections;
- (b) the Services are subject to certain constraints as set out in the Service Description. In particular you acknowledge that the platform for the Services will not support diallers of any description ("diallers" for these purposes being electronic automated dialling apparatus which selects multiple quantities of simultaneous lines); and
- (c) there may be some restrictions to Number Portability as set out in the Customer Services Guide.

14.2 You will use your reasonable endeavours to ensure that the network chosen to deliver the Services has the bandwidth and quality required to deliver the Services. We shall have no liability whatsoever for any failure to provide the Services in accordance with these Service Terms (including applicable Service Levels) to the extent that such failure is attributable to any deficiency in your chosen network (unless we provide such connectivity in which case you shall have the rights and remedies set out in our terms and conditions applicable to the provision of those network services).

### 15. Security obligations

15.1 You shall:

- (a) comply with any security policies issued or provided by us or a Supplier from time to time;
- (b) ensure that any user names and passwords used in connection with the Services are kept confidential and are only used by authorised users;
- (c) inform us immediately if you know or suspect that there has been a serious breach of your security

policy or that a user name or password has been disclosed to an unauthorised user or is being used in an unauthorised way; and

- (d) take all reasonable steps necessary to remedy and/or minimise the impact of a security incident described in clause 15.1(c) and to minimise the risk of such future breaches.

15.2 We reserve the right, acting reasonably, to:

- (a) suspend user names and password access to the Portal if at any time we suspect that there has been or is likely to be a breach of security;
- (b) ask you to change any or all of the passwords you use in connection with the Services (and you shall promptly comply with such request); and
- (c) when required by Applicable Law, or at the direction or request of any Authority, disclose to the relevant government agency or Authority passwords, decryption codes and details of Content and other information relating to you gathered, stored, or processed using the Services. We will notify you of any proposed disclosure unless we are instructed or asked by a relevant Authority to keep such disclosure secret or if we are otherwise bound to do so by Applicable Law.

15.3 You acknowledge that use of the Services, like other network-based services, may not be secure and carries certain security risks to yours and our systems and networks and those of a Supplier and other third parties including misuse, unauthorised access, alterations, theft, fraud, destruction, corruption and technological attacks (including denial of service attacks, viruses, worms and computer hacking) (**Occurrences**). You acknowledge and agree that:

- (a) you are solely responsible for procuring and maintaining the security of your own equipment, software, data, systems and networks and the network connections and telecommunications links from your systems and networks to the Network, even if you use a third party, us or a Supplier to configure and implement them provided that, if we or a Supplier does so, we have correctly implemented the instructions given by you;
- (b) you shall, at your own expense, take appropriate security measures including use of firewalls, passwords, access restrictions, encryption, policies, and physical access restrictions to protect from Occurrences all VOIP traffic, equipment, software, data, systems and networks located on the Premises or otherwise in your control and used in connection with the Services, whether owned by you, us, a Supplier or their subcontractors; and
- (c) we do not guarantee the prevention or detection of any Occurrences and shall not be liable in contract, tort (including negligence) or on any other basis for any loss or damage arising out of any Occurrences on any equipment, software, data, systems and networks located on the Premises or otherwise within your control.

15.4 We shall not be responsible for any Charges or costs resulting from any fraudulent use of the Services, Services Equipment or Customer Premises Equipment or for any Calls made in breach of clause 6.3 whether by you or any other person and you agree to pay all

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- additional Charges and costs related to such fraudulent or unauthorised use of the Services.
- 15.5 You and we shall each fully co-operate with the police and any other Authority in connection with any misuse or suspected misuse of the Services. You also agree that we may co-operate with any other third party supplier in connection with any suspected fraudulent activity related to or connected with the Services. You shall provide such data in respect of your use of the Services as we may reasonably require in order to provide such co-operation and consent to our disclosure of any information you supply to such third parties for this purpose.
16. **Making changes to the Services, Charges, Order and/or these Service Terms**
- 16.1 We may, by giving you no less than thirty (30) days' written notice (other than in an emergency in which case we will give you as much notice as reasonably possible):
- (a) change, modify, enhance, replace, make additions to any of the Services (or any part of them including, the way in which they are delivered);
  - (b) vary the Charges;
  - (c) make any change to the Order and/or these Service Terms at any time where necessary to comply with Applicable Law or with the direction or instructions of any Authority;
  - (d) make any change to the Order and/or these Service Terms at any time where necessary to address any changes in the terms imposed by, or the requirements of, a Supplier; or
  - (e) withdraw any Service Features and terminate any associated Order or part of an Order which relates to such Service Features.
- 16.2 Except as set out in this clause 16, any changes to these Service Terms must be agreed by you and us in writing.
17. **Charges, invoicing and payment**
- 17.1 The Charges payable by you to us for the provision of the Services consist of:
- (a) the charges for the Services as set out in Schedule 3;
  - (b) all charges for any other services, goods or property (including Products) provided by us to you or costs we incur from time to time connected to an Order, which shall be calculated in accordance with our charges communicated to you from time to time and on request; and
  - (c) save for charges caused directly by our act or omission, other than in compliance with our obligations under these Service Terms, we reserve the right to pass on any charges levied against us (or our suppliers) by the Supplier for the provision of Services or other third party and/or administration costs which we incur from time to time in order to provide the Services and in each case which are not set out in these Service Terms.
- 17.2 Each month we shall send to you an invoice for the aggregate Charges which are payable by you to us for that relevant month.
- 17.3 You shall pay all Charges by monthly Direct Debit to the account notified to you from time to time. Payment by Direct Debit will be taken within fourteen (14) days of the date of invoice or such other period as is agreed by us. A Direct Debit instruction form must be completed at the same time as submitting an Order Form. This will give you the protection of the Direct Debit Guarantee.
- 17.4 The Charges shall be exclusive of all taxes (direct or indirect), levy, duty, charge, contribution or impost of whatsoever nature imposed by an Authority in the United Kingdom or elsewhere. These shall be payable by you in addition to the Charges as applicable at the rate and in the manner prescribed by Applicable Law from time to time.
- 17.5 If any sum properly due under these Service Terms is not paid by the due date, we reserve the right to suspend the Services and/or charge interest on such sum on a daily basis (after as well as before any judgement) from the due date to the date of payment at the rate of four per cent (4%) above the base rate from time to time of Barclays Bank plc and to recover from you all reasonable costs and expenses we incur in securing payment of such outstanding amounts.
- 17.6 Save in the case of demonstrable and manifest error all Charges shall be calculated in accordance with data recorded or logged by, or on our behalf.
18. **Bonds and Credit Limits**
- 18.1 If required by us in writing at any time, you shall pay a Bond in the amount and by the date we specify, or following the payment of a Bond, increase the Bond as we require in writing at any time. The Bond shall be held by us in a bank account designated to hold Bonds and shall not be used other than for the purposes set out in this clause 18.
- 18.2 Where you are late in paying any Charges, then without prejudice to our other rights and remedies we may deduct the overdue amount (including any interest due in accordance with these Service Terms) from the Bond. The use of the Bond in this way will release you from your obligation to pay the deducted amount provided that the Bond is sufficient to meet the liability in full.
- 18.3 If we deduct an amount from the Bond in accordance with clause 18.2, we can ask you to pay the amount necessary to replenish the Bond to the original amount and if you do so we shall not be entitled to exercise our right to terminate these Service Terms for late payment pursuant to clause 25.1(b).
- 18.4 Where the overdue amount deducted from the Bond in accordance with clause 18.2 is less than the amount of the Bond held, we will hold the balance of the Bond until it is returned in accordance with clause 18.5.
- 18.5 We will return the Bond to you if all agreements between you and us for the provision of services are terminated or have expired and you have paid all amounts owing to us under such agreements. We may use the Bond to offset any outstanding Charges or other amounts owed to us, whether under the Order or otherwise, without prejudice to your liability to pay the balance of such amounts.
- 18.6 We may impose a credit limit on your account by giving you notice in writing. Where you exceed such credit limit:
- (a) we may demand immediate payment of any Charges incurred;
  - (b) we may immediately suspend the Services; and

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- (c) you shall remain responsible for all Charges incurred, including those exceeding the credit limit.
- 19. Warranties**
- 19.1** Each of you and us warrant to the other that:
- (a) it has full power and authority to enter into each Order and perform its obligations under these Service Terms and the person who signs (or otherwise enters the Order) on behalf of you or us has been duly authorised to do so;
  - (b) its entry into and performance of these Service Terms will not infringe the rights of any third party or cause it to be in breach of any obligations to a third party or any Applicable Law; and
  - (c) it shall procure, as necessary, the performance by its officers, employees, agents and sub-contractors of all such actions as are required to complete and satisfy its obligations under these Service Terms.
- 19.2** Except as expressly stated in these Service Terms, all warranties, conditions, terms and undertakings, whether express or implied by statute, common law, course of dealings, collaterally or otherwise (including those relating to quality or fitness for purpose of the Services) are excluded to the fullest extent permitted by Applicable Law).
- 20. Indemnities**
- 20.1** You agree to indemnify us in full and hold us harmless against any costs (including reasonable legal fees), damages, liabilities, fines, penalties, losses or expenses we suffer or incur arising out of or in connection with:
- (a) any legal actions, claims, proceedings, investigations or demands brought against us or any Supplier by any third party alleging that your use of the Services other than in compliance with these Service Terms or in combination with any products or services or any use of the Content infringes any Intellectual Property Rights of a third party; or
  - (b) your breach of clauses 6.1 to 6.3 (inclusive) or 19.1.
- 20.2** We shall give you written notice promptly upon becoming aware of any claim pursuant to clause 20.1(a), but our failure or delay in doing so shall not reduce your liability under this clause 20, except to the extent (if any) that you are prejudiced by our failure or delay.
- 21. Limitations on liability**
- 21.1** The Charges reflect the following limitations and exclusions of liability which you and we acknowledge and agree are reasonable in the circumstances.
- 21.2** Subject to clause 21.5, our entire liability under or in connection with an Order whether in contract, tort (including negligence) or for breach of statutory duty or otherwise, in respect of all causes of action or claims or continuing causes of action or claim arising in any twelve (12) month period (the first of which commences on the Order Commencement Date), shall not exceed the total of the Charges paid or payable by you in respect of that Order in that twelve (12) month period.
- 21.3** Subject to clause 21.5, we shall not in any circumstances be liable for:
- (a) any charges incurred by you should you seek substitute or alternative services from another operator;
  - (b) any failure, non-provision or delay in the provision of the Services and/or failure to meet any applicable Service Levels which:
    - (i) are attributable to your acts or omissions or those of your employees or agents or the interoperability or use of Customer Premises Equipment and/or software, applications or other products or services not supplied by us with the Services;
    - (ii) are attributable to the acts or omissions of any Access Provider (unless we provide such connectivity in which case you shall have the rights and remedies set out in our terms and conditions applicable to the provision of such services);
    - (iii) arises from any defect or deficiency of any internal cabling for which you are responsible under these Service Terms;
    - (iv) occurs during any period of Maintenance which is notified in accordance with the procedures set out in the Customer Services Guide; or
    - (v) arises as a result of any Emergency Services or certain other local or governmental authorities being granted priority access to the Network due to an emergency or otherwise upon their request;
  - (c) any unavailability of the Services that is due in whole or in part to the failure of the Network, any third party telecommunications services, network or software or any Customer Premises Equipment (save where we have supplied the affected Customer Premises Equipment in which case the provisions of our Standard Terms of Sale shall apply); or
  - (d) any failure of the Services to provide any facility or function not described in these Service Terms.
- 21.4** Subject to clause 21.5 and except for any liability arising under clause 20.1 or in relation to the payment of the Charges or any Early Termination Charges we shall not be liable, in contract, tort (including negligence) or for breach of statutory duty or otherwise for:
- (a) any loss or damage incurred by you as a result of any claims made or alleged by third parties howsoever arising including as a result of your failure to comply with your obligations under an Order or the fraudulent use of the Services;
  - (b) any loss of profits, revenue, business opportunity, goodwill, contracts or anticipated savings;
  - (c) any loss or corruption of data;
  - (d) any injury to reputation or wasted expenditure;
  - (e) any indirect, consequential or special losses; or
  - (f) any other losses, costs, expenses, liability, commitment, contract or expenditure suffered or incurred in reliance on the Order.
- 21.5** Nothing in these Service Terms shall operate so as to exclude or limit the liability of either you or us:

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- (a) for death or personal injury resulting from negligence;
  - (b) for fraud or fraudulent misrepresentation; or
  - (c) for any other liability the exclusion or limitation of which is not permitted by the law of England and Wales.
- 21.6 You must bring any legal proceedings against us arising from or in connection with an Order within twelve (12) calendar months of the date on which you first became aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability or within the relevant period in accordance with Applicable Law, whichever is earlier.
22. **Events we cannot control**
- 22.1 If a Force Majeure Event occurs which prevents us from, or delays or hinders us in, performing any of our obligations to you, we shall not be liable to you and shall be released from our responsibility to perform such obligations to the extent that our ability to perform the obligations has been affected by the Force Majeure Event, provided always that we:
- (a) notify you in writing as soon as reasonably practical of the occurrence of the Force Majeure Event and the nature and likely duration of its impact upon you;
  - (b) continue to perform all of our obligations which have not been affected by the Force Majeure Event;
  - (c) resume normal performance of all affected obligations as soon as reasonably possible after the Force Majeure Event ceases to have an impact, and notify you in writing promptly of such resumption; and
  - (d) use all reasonable endeavours to mitigate the effects of the Force Majeure Event.
23. **Our rights to suspend the Services**
- 23.1 We may, without prejudice to our other rights, suspend, interrupt or limit the provision of the Services in whole or in part at any time:
- (a) without prior notice:
    - (i) to comply with an order, instruction or request of any governmental body, the Emergency Services or any Authority;
    - (ii) if our ability (or that of any Supplier) to connect to any Customer Premises Equipment, Services Equipment or any third party services, network or software is withdrawn or compromised for any reason;
    - (iii) in order to deal with any actual or suspected security breach, virus, or attack or any misuse (including an actual or suspected failure by you to comply with the provisions of paragraph 15.3(b)) by any person;
    - (iv) you are in breach of these Service Terms (and, in the case of any payment obligations you have not remedied such breach within seven (7) days of our written request) or, in the case of clause 6.3, we reasonably believe you are in breach;
  - (v) we have a right to terminate an Order in accordance with clause 25;
  - (vi) where a Supplier suspends, limits or interrupts the Services (in whole or in part) as a result of your acts or omissions (or on any other grounds imposed by the relevant Supplier (provided that suspension of a service by a Supplier is not a result of our non-payment)); or
  - (vii) where we reasonably consider it necessary as a reasonable and prudent provider of the Services;
- (b) following, where reasonably practicable, prior notice to make any change, modification, enhancement, replacement of or additions to any Services in accordance with clause 16.1; and
  - (c) to carry out any Maintenance or unscheduled work as envisaged by paragraphs 23.2 and 23.3.
- 23.2 **Maintenance:** Subject to any requirements of a Supplier, we will use all reasonable endeavours to minimise or mitigate any downtime, and to carry out Maintenance during periods of lower customer traffic. We will inform you as far as possible in advance of any scheduled downtime and shall use all reasonable endeavours to provide a service workaround where practicable and commercially reasonable.
- 23.3 **Unscheduled Work:** We and a Supplier shall be free to carry out Emergency or urgent Maintenance at any time including to ensure the Services are continued to be supplied. We shall advise you if practicable prior to conducting any such Emergency or urgent Maintenance, or at least as soon as practicable after the completion of the Emergency or urgent Maintenance and will use all reasonable endeavours to minimise the impact or duration of any such suspension.
- 23.4 You shall reimburse us in respect of all costs and expenses incurred in the suspension, interruption or limiting and re-commencing of the provision of the Services thereafter where the Services were suspended pursuant to clauses 23.1(a)(iii) to 23.1(a)(vi) (inclusive).
- 23.5 Any period during which the Services are suspended, interrupted or limited in accordance with clause 23.1 shall not be taken into account in the calculation of any Services' compliance with any applicable Service Levels.
- 23.6 Any suspension, interruption or limiting of the Services shall not exclude our right subsequently to terminate an Order.
24. **Your rights to terminate an Order**
- 24.1 If you want to cancel an Order following acceptance by us but before the provision of the relevant Services commences, you should follow the procedure set out in the Customer Services Guide. Cancellation of an Order following acceptance shall be at our discretion and may be subject to such conditions and charges as we require.
- 24.2 You may terminate an Order at any time after the Activation Date by giving us not less than the Minimum Notice in writing subject always to the provisions of clause 26.1.
- 24.3 Without prejudice to any right or remedy you may have against us for breach or non-performance of the Order,

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you may terminate an Order (in whole or part) with immediate effect by notice in writing to us where:

- (a) we commit a material breach of any of the terms of the Order provided that where such breach is capable of remedy we have not rectified it within twenty (20) Working Days of receipt of a written notice from you detailing the breach and requesting that we remedy it;
- (b) we suffer an Insolvency Event;
- (c) we threaten to or cease to carry on any part of our business which has a material effect on our ability to perform our obligations under the Order; or
- (d) we are affected by a Force Majeure Event for three (3) months or more.

24.4 Without prejudice to any right or remedy you may have against us for breach or non-performance of the Order, you may terminate an Order if we make a variation which is to your material detriment to:

- (a) the Order (with the exception of any Charges or Service Features) in accordance with clause 16.1, on twenty-one (21) days' written notice, provided such notice is not given after fourteen (14) days of us providing notice of any change to the Order; or
- (b) the Charges (with the exception of any Charges which do not relate to your recurring subscription Charges or Service Features), on sixty (60) days' written notice, provided that such notice is not given after any such change to the Charges takes effect.

### 25. Our rights to terminate an Order

25.1 Without prejudice to any right or remedy we may have against you for breach or non-performance of the Order, we may terminate an Order (in whole or part) with immediate effect by notice in writing to you where:

- (a) you commit a material breach of any of the terms of the Order provided that where such breach is capable of remedy you have not rectified it within twenty (20) Working Days of receipt of a written notice from us detailing the breach and requesting that you remedy it (and, for these purposes, any breach of clauses 6.1 to 6.3 (inclusive), 18.1 or 18.3 shall be considered a material breach of these Service Terms);
- (b) there is a failure by you to pay a sum which is due and payable under the Order:
  - (i) which you do not rectify within fifteen (15) Working Days of receipt of written notice requiring payment; or
  - (ii) on three (3) or more occasions in separate payment months in a twenty-four (24) month period providing notices are served on you upon the first two (2) occasions in accordance with clause 25.1(b)(i);
- (c) you commit a persistent breach of these Service Terms and (if such breach or breaches can be remedied) fail to remedy it within thirty (30) days of notice of the breach;
- (d) you suffer an Insolvency Event;
- (e) you threaten to or cease to carry on any part of your business which has a material effect on your ability to perform your obligations under the Order;

- (f) we are entitled to suspend, interrupt or limit the provision of the Services in accordance with clause 23;
- (g) we or a Supplier are directed by an Authority to cease to provide any of the Services, if either our own or a Supplier's legal authorisation or capability to provide the Services is terminated or revoked, if it is determined that the provision of the Services, or any part of them is in violation of any Applicable Law, or if there is a decision that adversely affects the way we supply the Services, in which event we shall give you as much notice as is practicable under the circumstances;
- (h) as a result of your acts or omissions a Supplier terminates a supply of the Services (in whole or in part);
- (i) your act or omission does or may cause us to be in breach of our obligations to a Supplier and either:
  - (i) you have not rectified such act or omission within twenty (20) Working Days of receipt of a written notice from us detailing the breach and requesting that you remedy it; or (ii) the Supplier suspends the supply of the Services (in whole or in part) at any time prior to, or notwithstanding any purported, remediation by you;
- (j) you have, in our reasonable opinion, committed fraud or engaged in any fraudulent or unauthorised use (whether actual or attempted) of the Services, any Service Equipment or any software or systems of us, a Supplier or any other third party connected with or used in the provision of the Services;
- (k) provision of any of the Services would give rise to or cause a breach of any code of practice and other regulatory instruments applicable to our or a Supplier's provision of the Services or any order or direction of an Authority; or
- (l) the Services (or any part of them) are no longer provided to us by a Supplier for any reason or are no longer of an appropriate quality and such services are essential to the provision of the Services and, having used reasonable endeavours to source a suitable alternative, no suitable replacement shall be available on commercially reasonable terms. We shall give you as much notice of discontinuance as is practicable under the circumstances.

25.2 We may, without liability to you, terminate an Order or the part of an Order that relates to a Service Feature in accordance with clause 16.1(e).

### 26. What are the consequences of termination

26.1 Where you terminate an Order in accordance with clauses 24.1 or 24.2 during the Minimum Term or we terminate an Order in accordance with clause 25.1 during the Minimum Term, you shall pay to us on any and all Early Termination Charges.

26.2 On termination of an Order:

- (a) all outstanding Charges and other amounts under the Order and which are due at the date of termination shall be payable by you;
- (b) no rebate or refund will be paid for the unexpired portion of any Order and/or License;



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- (c) you shall cease to use the Services (to the extent of any License) and Service Equipment and permit or procure permission for us, a Supplier or our or their sub-contractors to gain access to any Premises at a time to be agreed with you (acting reasonably) for the purpose of removing the Service Equipment, and we, the Supplier or our or their sub-contractors shall promptly undertake such removal;
- (d) all rights or licences granted to you pursuant to these Service Terms (including pursuant to clause 29.2) shall cease; and
- (e) you and we shall each promptly return (or at the other's option, destroy) such documents as are in its possession and which are the property of or contain Confidential Information of the other save that we shall be entitled to retain: (i) a copy of your Confidential Information as required to comply with Applicable Law and/or our internal audit procedures; and (ii) copies of any computer records or electronic files containing your Confidential Information which have been created by our automatic back-up or archival procedures.
- 26.3 The termination of an Order shall be without prejudice to any other rights or remedies you or we may be entitled to (whether under these Service Terms or in accordance with Applicable Law).
- 26.4 Termination does not affect the accrued rights or liabilities of either you or us and clauses 17, 18, 21, 26, 27, 28, 30, 31 and 32 will continue to be in force even if the Order has terminated.
- 27. Protecting Confidential Information**
- 27.1 You and we each agree that during the term of an Order and following its expiry or termination, you and we shall keep confidential and shall not use for its own purposes, nor without the prior written consent of the other disclose to any third party, any Confidential Information which is disclosed to it by or on behalf of the other, unless the information is public knowledge or already known to it at the time of disclosure or subsequently becomes public knowledge other than by breach of the Order or subsequently comes lawfully into yours or our possession from a third party.
- 27.2 To the extent necessary to implement the provisions of the Order, you and we may each disclose Confidential Information to those of its employees (and, in our case, any Supplier) as may be reasonably necessary or desirable, provided that before any such disclosure you and we shall make our respective employees aware of the obligations under this clause 27.2 and shall at all times procure compliance by those employees with them.
- 28. Data Protection**
- 28.1 Both you and we agree to comply with all Applicable Law in relation to data protection, including the Data Protection Act 1998.
- 28.2 You agree that in submitting data (including personal data) to us under or in connection with any Order, you give your consent (and you shall make sure each of your users of the Services gives his/her consent, as required):
- (a) for such data to be shared with our Suppliers;
- (b) to us transferring any data to any location outside the European Economic Area; and
- (c) to our passing your data to any Authority or as otherwise required to comply with Applicable Law, in each case solely as is required for or in connection with the provision of the Services.
- 28.3 Without prejudice to clause 28.2, we will process data about you (including personal data) in accordance with our Privacy Policy.
- 28.4 For the purposes of this clause 28 "data controller", "data processor", "personal data" and "process" shall have the same meanings as within the Data Protection Act 1998 or the equivalent in any successive legislation or regulation.
- 29. Intellectual Property Rights**
- 29.1 You agree that all Intellectual Property Rights and other rights in the Services shall remain the property of us or our licensors.
- 29.2 You shall not use any trade mark, service mark, company name, company domain or domain name, any photograph, representation of any building, trading style and/or logo of us or a Supplier without our prior written consent.
- 29.3 You shall not obtain ownership over any CLI or IP address provided by us and/or any supplier under any Order.
- 30. Notices**
- 30.1 Each notice or communication given under or in relation to an Order shall be in writing and shall be delivered by hand or sent by special delivery post or facsimile to the other party, for you, at its address or facsimile number set out in the Order, and for us, at its address or facsimile number set out below or in each case to such other address or facsimile number as the receiving party has previously notified to the sending party in writing. Notices shall not be deemed to be validly served if sent by email.
- FAO: Company Secretary  
Network Sales and Solutions Limited t/a Rocom Network Services  
Agecroft Road, Pendlebury, Swinton, Manchester M27 8SB  
Fax: 0161 979 0640
- 30.2 Each such notice shall be deemed to have been served:
- (a) in the case of by hand and special delivery post, when actually received; or
- (b) if sent by special delivery post and returned marked gone away or to the like effect, on return of such special delivery mail; or
- (c) if sent by facsimile, on the second Working Day after the day of transmission provided that the sending party shall have received an error free transmission report in respect of the notice and shall have sent a copy by first class post on the day of transmission.

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### 31. General Provisions

- 31.1 We may sub-contract the provision of the Services to a Supplier provided that we will remain primarily liable for the performance of a Supplier to the same extent as if we were performing the obligations ourselves. You may not assign or transfer or purport to assign or transfer any of your rights under an Order without our prior written consent (such consent not to be unreasonably withheld or delayed).
- 31.2 If any provision of these Service Terms or an Order is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Order had been executed with the invalid, illegal or unenforceable provision eliminated.
- 31.3 A delay in enforcing any of the provision of an Order shall not affect or restrict your or our rights arising under the Order. Any waiver of any breach of an Order will not be a waiver of any prior, concurrent or subsequent breach of the same or any other provision of the Order.
- 31.4 The Order constitutes the entire agreement between you and us and supersedes any prior agreements understandings and arrangements between them, whether oral or in writing, relating to its subject matter.
- 31.5 Both you and we acknowledge that in entering into an Order you and we have not relied on (and shall not have any remedies in respect of) any representation, undertaking or promise, whether made innocently or negligently, that is not set out in the Order provided that neither you nor we exclude your or our liability for fraud or fraudulent misrepresentation.
- 31.6 Nothing in an Order shall or is intended or shall be construed to create a relationship of agency or partnership between you and us.
- 31.7 Unless otherwise stated in an Order, nothing in these Service Terms shall confer any rights upon any person who is not a party to the Order whether under the Contracts (Rights of Third Parties) Act 1999 or otherwise.

### 32. Governing Law and Jurisdiction

- 32.1 Each Order and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 32.2 You and we irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with an Order or its subject matter or formation (including non-contractual disputes or claims).

### 33. Definitions and Interpretation

- 33.1 For the purposes of these Service Terms the following terms shall have the following meanings:

**Acceptable Use Policy:** a policy notified to you by us that governs how you may use the applicable Services as such policy may be amended from time to time in writing;

**Access Connection:** a digital subscriber line connection whether symmetric or asymmetric; Ethernet access connection, leased line connection, 3G or 4G connection, broadband wireless access connection,

from your Premises to ours or a Supplier's systems, running over a telephone line to a local telecommunications exchange, over a third party telecommunications network, and through a connection between ours or a Supplier's systems;

**Access Provider:** any person, firm or company or other entity which provides us with an Access Connection or with access to the PSTN;

**Activation Date:** the relevant date that we notify you that a License or Service Feature which are the subject of an Order are activated and ready for use;

**Applicable Law:** the laws of the UK and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which touch or concern the provision of the Services including the Communications Act 2003, the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000 and all regulations relating to the marketing and supply of the Services;

**Approved Handset:** any handset or other telephony equipment included within the approved equipment list set out in paragraph 5 of the Service Description (as such list may be amended from time to time by us on thirty (30) days' written notice);

**Authority:** a regulatory or other competent authority including but not limited to the Emergency Services, HM Revenue and Customs, Trading Standards and/or Ofcom and their successors from time to time;

**Bond:** an amount of security to be paid by you in accordance with clause 18;

**Call:** a signal, message or communication which can be silent, visual or spoken made by you utilising the Services, excluding text messages;

**Charges:** the charges (excluding VAT and other taxes or duties applicable thereto) payable by you to us from time to time, for the provision of the Services as set out in clause 17.1;

**CLI:** the telephone number of the originating end user (i.e. the calling party) or your default number;

**Communications Provider:** a 'Communications Provider' as defined in paragraph 1.4(a) of Condition 1 of the General Conditions of Entitlement set by Ofcom pursuant to section 45 of the Communications Act 2003;

**Confidential Information:** any and all information disclosed by you or us to the other in connection with the Order which is marked 'confidential' or which might reasonably be supposed to be confidential. Amongst other things, this shall include any and all know-how, Intellectual Property Rights, documentation and information, whether commercial, financial, technical, operational or otherwise, relating to the business, finances, affairs, products, services, personnel, customers, suppliers or methods of the disclosing party;

**Connect to Number:** the contact number used to connect to the relevant Emergency Services;

**Content:** any information or content that is created, transmitted or displayed in connection with the Services by you or which is supplied to us by you in connection with the provision of the Services;

**Customer Premises Equipment:** telecommunications equipment, of a type approved under all Applicable Law and standards issued pursuant to that legislation and

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which may be used by you to access the Services (but excluding the Services Equipment);

**Customer Services Guide:** a non-binding manual which identifies the operational processes and interfaces between you and us in respect of the Services (including, by way of example, how Orders should be placed, how to report Service Faults and the provision of Support by us to you in respect of the Services) as updated and amended by us from time to time;

**DDIs:** Direct Dial In numbers;

**Early Termination Charges:** the total of the Charges which are identified in the Order as being "fixed charges" or "fixed monthly charges" or are otherwise Recurring Charges for the purposes of these Service Terms and which would, but for termination of the Order, be payable by you from the date of termination of the Order until the expiration of the Minimum Term;

**Emergency:** a serious situation or occurrence that happens unexpectedly and demands immediate action;

**Emergency Call:** a Call to 999 or 112;

**Emergency Call Access:** the service conveying Emergency Calls as described in the Service Description and which forms part of the Services;

**Emergency Centre:** the premises where ours or a Suppliers' operators answer Emergency Calls;

**Emergency Services Database:** the 999 call routing and address database;

**Emergency Services:** the relevant local public police, fire, ambulance and coastguard services and other similar organisations providing assistance to the public in emergencies;

**Force Majeure Event:** any event beyond our reasonable control including strikes, lock outs, labour disputes (of ours or other employees), acts of God, riots, civil disorder, acts or omissions by you, malicious damage, compliance with any legislation or direction of any Authority, accident, power failure, fire, flood, storm, mandatory annual network freezes between Christmas and New Year by any Supplier or failure by any statutory undertaking, utility company, telecommunications provider (other than us), Authority, sub-contractor or supplier which directly or indirectly causes us to be unable to comply with any of its obligations under the Order;

**Good Industry Practice:** the exercise of that degree of skill and care as would be expected from a reasonably competent service provider engaged in the provision of similar services in the Territory under the same or similar circumstances;

**Intellectual Property Rights:** all patents, trade marks, design rights (whether registered, registrable or otherwise and including, applications for any of the foregoing), copyright (including rights in software), database rights, trade or business names and all rights of a similar nature anywhere in the world;

**Insolvency Event:** the concerned party is unable to pay its debts within the meaning of s.123 of the Insolvency Act 1986 or shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition, scheme or arrangement with (or assignment for the benefit of) its creditors or a receiver,

administrative receiver or similar officer is appointed over all or a substantial part of its undertaking or assets (and not discharged within five (5) Working Days) or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for its winding up (other than for the purposes of reconstruction or amalgamation whether by the presentation of a winding up petition or otherwise) or for the making of an administration order (and such action or step is not withdrawn or revoked within twenty (20) Working Days) or any analogous event in another jurisdiction occurs in respect of the concerned party;

**IP:** internet protocol;

**License:** the revocable right, for a user endpoint of yours, for the duration of the Order, to access the Services. This right does not operate to transfer any intellectual property to you;

**Maintenance:** any work carried out by or on behalf of us in order to upgrade repair or maintain the Services;

**Minimum Notice:** thirty (30) days;

**Minimum Term:** the minimum term of an Order being: (a) in respect of Licenses a thirty-six (36) month minimum period; and (b) in respect of Service Features a one month minimum period; or (c) in each case such other minimum period as is agreed in writing in respect of an Order;

**Network:** the telecommunications system or network that we or a Supplier use to provide the Services from time to time at our/its sole discretion;

**Number Portability:** an arrangement between you and us whereby your telephone number ceases to be provided by the losing Communications Provider and such telephone number is subject to number import onto the Service platform. If you cease to use your telephone number then it may be subject to number export to the gaining Communications Provider pursuant to the Number Portability rules as notified to you by us from time to time;

**Order:** an order for Services placed by you under and in accordance with these Service Terms and as more particularly defined in clause 1.2;

**Order Form:** our paper or web-based application form containing the details of the relevant Services;

**PBX:** public branch exchange;

**Portal:** an online portal or tool which may be made available by us or a Supplier by which: (i) you may, amongst other things, place Orders, view your information, obtain Order status reports and to provision support services; and (ii) we may, amongst other things, notify you of changes to terms and conditions or policies (including acceptable use policies or fair usage policies) or issue other instructions or guidance relating to the services or products we supply; as such online portal or tool may be amended from time to time in accordance with these Service Terms;

**Premises:** any location either owned, managed or controlled by you to which the Services are to be supplied;

**Privacy Policy:** our privacy policy located on [\[insert website address\]](#) and/or the Portal which governs how we may collect, process and use your personal data, as such policy may be amended from time to time in

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writing;

**Products:** the VoIP telephone handsets and other hardware or equipment details of which are set out in the Product List in paragraph 5 of the Service Description, and such other products as we may specify in writing from time to time;

**Product Charges:** the charges which are payable by you for the supply of the Products by us;

**PSTN:** a public switched telephone network;

**Seat:** any user point of connectivity (by which a user accesses the Service using an applicable device);

**Service Availability:** a time when the Core Service (as described in paragraph 2 of the Service Description) is fully available and operational for use (with the ability to make and receive Calls);

**Service Description:** the description of the Services and Support which shall be provided by us to you under these Service Terms as set out in Schedule 1;

**Service Equipment:** any equipment made available to you by us or a Supplier as part of the Services;

**Service Fault:** the period during which the Services are not available or is only partially available;

**Service Feature:** a distinguishable function or feature of the Services (for example call recording) which is optional to the features of the core License hosted VoIP telephony service and which we may group together in "Feature Packs" which may be available from time to time and as may be varied by us in accordance with these Service Terms;

**Service Levels:** the service levels set out in Schedule 2;

**Services:** the hosted PBX GS Hosted IP telephony services and other services to be provided by us as set out in the Service Description (including any Service Features);

**Services Terms:** the terms and conditions of service detailed in this document;

**Software:** any software and associated written and electronic documentation and data provided used to access the Services;

**Standard Terms of Sale:** our standard terms of sale as notified by us from time to time;

**Supplier:** such supplier of the Services (or applicable part of them) as we notify to you from time to time and/or its agents or sub-contractors;

**Support:** the support services for the relevant Services more particularly detailed in the Service Description and delivered as set out in the Customer Services Guide;

**Territory:** the United Kingdom or such other territory in which the Services may be provided as set out in the Order;

**we, our, us:** Rocom Network Services, a trading name of Network Sales and Solutions Limited, a company registered in England and Wales (company number 01785588) with its registered office at Agecroft Road, Pendlebury, Swinton, Manchester M27 8SB;

**VOIP:** voice over internet protocol;

**Warranty Period:** for those Products identified in the

Product List the period set out in paragraph 5 of the Service Description;

**Working Day:** any day which is not a Saturday, a Sunday or any public holiday or bank holiday in the United Kingdom;

**Working Hours:** between 8.30 am and 5.30 pm on Working Days; and

**you, your:** the customer stated in the Order Form.

33.2 In these Service Terms:

- (a) references to a person shall include individuals, bodies corporate, unincorporated associations and partnerships and any other person having legal capacity and shall include the successors and permitted transferees and assigns of such persons;
- (b) references to the singular includes the plural (and vice versa);
- (c) references to the masculine includes the feminine (and vice versa), and the neuter includes the masculine or the feminine (and vice versa);
- (d) headings and tables of contents are for convenience only and shall not affect the interpretation or construction of these Service Terms;
- (e) save where expressly stated otherwise, references to clauses and Schedules are to the clauses and Schedules of these Service Terms and references to paragraphs and appendices in a Schedule are to the paragraphs and appendices of that Schedule;
- (f) a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- (g) a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision;
- (h) references to "includes" or "including" shall mean without limitation;
- (i) references to the holder of any office or position of responsibility include references to such person as is from time to time appointed to exercise the functions of the holder;
- (j) references to items as listed or specified in these Service Terms shall include references to those items as removed, replaced, amended or added to from time to time under the terms of these Service Terms;
- (k) references to "documents", "records", "books" and "data" shall include information contained in computer programs and disks and records or other machine readable form or records kept otherwise than in a legible form but capable of being reproduced in a legible form;
- (l) any word or phrase having a customarily accepted meaning within the telecommunications industry within the context in which it is used in these Service Terms shall have that meaning unless otherwise expressly agreed by you and us in writing; and
- (m) any undertaking by you or us not to do any act or thing includes an undertaking not to allow, cause or assist the doing of that act or thing.

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## SCHEDULE 1

### SERVICE DESCRIPTION

1. **Background**
- 1.1 Subject always to our rights to change the Services in accordance with these Service Terms, this Schedule 1 provides a high level description of the Services.
2. **Core Service**
- (a) Hosted PBX Portphone.
- (b) Fully managed, enterprise-grade, hosted end-to-end IP telephony service (phone system).
3. **Emergency Call Access**
- 3.1 Emergency Calls Access forms part of the Services and shall be supplied by us on the terms set out in this Schedule 1.
- 3.2 Subject to the provisions of this Schedule 1, we shall convey Emergency Calls to the Emergency Centre and, if the geographic location of the Emergency Call can be sufficiently identified, hand over such Calls to the relevant Emergency Services. This service shall only be available for access where the Emergency Call originates from a calling party located in the UK having a telephone number conforming to the National Telephone Numbering Plan published by Ofcom, and being either from a geographic number range or from non-geographic number ranges 055, 056, 03 or 08.
- 3.3 Subject to the provisions of this Schedule 1, where Emergency Calls are conveyed to the Service platform, we shall:
- (a) convey Emergency Calls to one of the relevant Emergency Centres;
- (b) if the geographic location of the Emergency Call can be sufficiently identified, provide an onwards connect service to the relevant Emergency Services via an Emergency Centre telephone operator by means of two-way voice telephony; and
- (c) liaise and co-operate with you in attempting to resolve problems that may arise and assist the Emergency Services with requests for call-trace in an attempt to identify the geographic location of the Emergency Call and your telephone number if not automatically provided.
- 3.4 We shall, based upon the geographic location information available, connect an Emergency Call to the Connect to Number on the Emergency Centres' Emergency Services Database shown for the Emergency Services requested by you.
- 3.5 If you make an Emergency Call for which it is not possible to clearly confirm the geographic location and appropriate Connect to Number, or the information is incorrect or corrupted, BT shall use reasonable endeavours to convey the Call to a Connect to Number for the appropriate Emergency Services.
- 3.6 We shall correct faults with the Services which affect Emergency Calls in accordance with ours or a Supplier's normal engineering practices. For the avoidance of doubt, we do not warrant that Emergency Call Access will be free from faults.
- 3.7 We shall give you not less than six (6) weeks' written notice of any material change to the Emergency Service
- under this paragraph 3, or such lesser period as may be agreed with you, such agreement not to be unreasonably withheld.
- 3.8 The Emergency Calls Access is subject to the following limitations (in addition to those outlined above):
- (a) your equipment used to access the Services requires mains power to make Emergency Calls;
- (b) you must confirm/provide your location when making an Emergency Call to enable the correct Emergency Organisation to respond; and
- (c) the Emergency Call may not receive the same network priority as an Emergency Call made on a mobile network or on a circuit-switched fixed line.
4. **Optional / additional services**
- 4.1 DDIs - subject to additional Charges as set out in the Order Form
- 4.2 Charges for optional/additional services are as set out in the Order Form (as amended and replaced from time to time in accordance with these Service Terms).
5. **Products**
- 5.1 The following Products comprise the equipment that we can supply for the purpose of delivering the Services in accordance with the Service Terms.

| Product List  |
|---|
| GS5200 - Standard Handset with 36 month warranty *  |
| GS5800 - Advanced Handset with 36 month warranty *  |
| GS6200 - Executive Handset with 36 month warranty * |
| GS1000 – DSS Console with 36 month warranty         |
| License only - Softphone *                          |
| License only – Third Party Handset *                |
| Call Recording (Per User)                           |
| Monthly License                                     |

6. **Service constraints**
- 6.1 The Services do not support the following call types:
- (a) Analogue calling via franking machine, PDQ type devices, EPOS systems, modem traffic or ISDN data traffic.
- 6.2 Only equipment which has been provided or authorised by us may be used with the Services (including Customer Premises Equipment and IP phones). A list of compatible/authorised equipment is available from us on request.
- 6.3 You acknowledge that Emergency Calls are not available in the event of electrical power not being available or if the IP connectivity is not available.
7. **Support Services**
- 7.1 We shall provide support to you which shall include:
- (n) all of your sales and service query handling;
- (o) your billing queries;

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- (p) queries relating to Service set up and Products which we have supplied to you; and
  - (q) simple technical queries.
- 7.2 Unless otherwise specified in this Schedule or agreed in writing between you and us, we shall only provide Support to you during Working Hours.
8. **Additional support services available**
- 8.1 We can provide the following additional support services on your request during (and, at our discretion, outside) of the Working Hours:
- (a) on-site visits;
  - (b) configuration of applications to your specific requirements;
  - (c) training you in the operation and maintenance of the system or the Services;
  - (d) media recovery, professional services, modifications, alterations, specification changes, engineering changes, enhancements, and other forms of extra work, including, without limitation, relocating, and adding or removing accessories, wiring or devices; and
- (e) other service requests that are not within the scope of the Services described in paragraphs 1 to 7 of this Schedule 1.
- 8.2 These additional services shall be provided at the rates advised by us, in accordance with our published price list. Additional services will be billed on an hourly basis and such charges will be due and payable within fourteen (14) days following the date of our invoice. Travel time relating to the provision of additional services will be charged to you at the hourly rate for such services applicable to the day and hour in which the travel takes place. Travel expenses (including, without limitation, mileage, tolls, parking and other out-of-pocket costs) with respect to such additional services will be charged as incurred.

# IP TELEPHONY SERVICES GENERAL TERMS AND CONDITIONS

## SCHEDULE 2

### Service Levels

#### 1. Introduction

1.1 This Schedule 2 describes the Service Levels provided by us to you in relation to the provision of Services under these Service Terms. We may introduce changes to this Schedule 2 from time to time in accordance with these Service Terms.

1.2 The Service Levels set out in this Schedule 2 are targets only and we shall have no liability for a failure to meet them.

#### 2. Fault response, restoration and resolution

##### Service Levels

2.1 Any Service Faults shall be handled in accordance with the relevant part of the Customer Services Guide applicable to the Services and subject to the remaining provisions of this paragraph 2 (including paragraph 2.9 below), we will endeavour to remedy Service Faults in accordance with the following Service Levels:

**Table 1:**

| Severity             | Target Response Time | Target Restoration Time |
|----------------------|----------------------|-------------------------|
| <b>Critical</b>      | < 2 Working Hours    | < 4 Working Hours       |
| <b>Major</b>         | < 4 Working Hours    | < 8 Working Hours       |
| <b>Minor</b>         | < 8 Working Hours    | < 24 Working Hours      |
| <b>Informational</b> | 6 Working Days       | N/A                     |

2.2 Our Service Level target is to meet the timeframes stated in Table 1 100% of the time for severity Critical issues and >90% of the time for severity levels Major and Minor.

##### Service Fault Management

2.3 Service Faults should be raised in accordance with the procedure set out in the Customer Services Guide. We recommend that Critical issues are raised by telephone to guarantee immediate attention.

2.4 Request for Support are managed according to the priority of the issue. Service Fault priority will be allocated by us in our absolute discretion in accordance with the severity definitions set out in Table 2 in paragraph 2.10 below.

2.5 We will work remotely with you via telephone and email and remote connection to investigate an issue and to resolve it. The support services do not include on-site support services.

2.6 Service Fault response times and restoration times are calculated from the time at which a fault is reported to us in accordance with the Customer Services Guide.

2.7 Where the origin of a Service Fault is unclear, we will assist you in fault identification. If it is confirmed that the Service Fault does not lie with us or a Supplier, including where it arises as a result of:

- (a) a failure of, or fault of, equipment not covered by the defined Services; or
- (b) a failure of, or fault of, your hardware or other equipment; or
- (c) your failure to operate the Services in accordance with these Service Terms,

we reserve the right to make a reasonable charge for any such assistance which we provide (including diagnostic assistance, and any assistance you request we provide in respect of fault resolution) at our rates as may apply from time to time in respect of such Support and we shall have no liability in respect of the Service Fault in question.

2.8 Any ticket with the status 'on hold-Customer' will auto-close after five (5) Working Days and will receive no more input from us – i.e., where we are waiting for five (5) Working Days for you to respond. If you suspect that the Service Fault is not resolved, you must reopen the ticket with the latest details.

##### Support Service Exclusions and Limitations

2.9 The Service Levels described in this Schedule 2 shall not apply if any of the following conditions contribute either wholly or partly to a failure to achieve the stated target:

- (a) failure during any period of planned maintenance or other scheduled work;
- (b) a failure of, or fault of, equipment not covered by the defined Services;
- (c) a failure of, or fault of your hardware or other equipment;
- (d) a third party IP connectivity network failure;
- (e) your failure to operate the Services in accordance with these Service Terms;
- (f) your failure to comply with our stated procedures for the reporting of incidents, as such procedures are specified in these Service Terms or notified by us to you from time to time;
- (g) a Force Majeure Event, or any other excusing cause detailed in these Service Terms in respect of which the relevant provisions thereof relieve us from liability; or
- (h) a Services interruption due to our proper exercise of any of our rights or remedies under these Service Terms (including termination or suspension of the Services).

##### Severity Definitions

2.10 Service Faults shall be categorised in accordance with the following severity definitions/priority levels:

| Resolution Priority           | Critical Outage   |
|-------------------------------|---|
| Description of fault or issue | Problems that severely affect call processing service, traffic and require immediate corrective action (24x7).<br><br>Total Services outage for you |

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|                          |   |
|--------------------------|---|
|                          | <p>Call processing is down for a larger group of users (&gt;10% of users but not less than 100 users)</p> <p>Mission critical operations are severely impacted and there is no workaround</p> <p>Emergency Calls are not reliably working</p>               |
| <b>It IS NOT when...</b> | <p>You have call processing problems for a small group of users (&lt;10%)</p> <p>A new application is not working</p> <p>You have a problem with a single phone, IAD, Gateway, PBX or desktop application</p> <p>Connectivity to you is non-operational</p> |
|                          |   |

|                                      |  |
|--------------------------------------|--|
| <b>Resolution Priority</b>           | <b>Major Impact</b>  |
| <b>Description of fault or issue</b> | <p>Problems that cause conditions that significantly affect the Services operation, maintenance, and administration and require immediate attention. The urgency is less than in critical situations because of a lesser effect on system performance.</p> <p>There are call processing issues with a small group of users (&lt;10% of users or less than 100 users)</p> <p>Service performance is degraded</p> <p>Administration of Services is degraded</p> <p>There is no reasonable workaround</p> |

|                          |  |
|--------------------------|--|
|                          | Provisioning problems  |
| <b>It IS NOT when...</b> | <p>You have a reasonable workaround</p> <p>You have a feature help request</p> <p>Connectivity to you is non-operational</p> |

|                                      |  |
|--------------------------------------|--|
| <b>Resolution Priority</b>           | <b>Minor Impact</b>  |
| <b>Description of fault or issue</b> | <p>Problems do not significantly impair the functioning of the Services and do not significantly affect service to you</p> <p>Problem is not Services affecting</p> <p>There is a reasonable workaround</p> <p>Provisioning problems</p> |
| <b>It IS NOT when...</b>             | Connectivity to you is non-operational   |

|                                      |  |
|--------------------------------------|--|
| <b>Resolution Priority</b>           | <b>Informational</b>   |
| <b>Description of fault or issue</b> | <p>Information needed concerning Services capabilities, advice or basic configuration. This severity is restricted to "How to..." questions and therefore handled as non-service impacting.</p> <p>Configuration questions</p> <p>Usability issue, documentation problem</p> <p>There is an easy workaround or no workaround is required</p> |
| <b>It IS NOT when...</b>             | N/A  |



# IP TELEPHONY SERVICES GENERAL TERMS AND CONDITIONS

## SCHEDULE 3

### Charges

#### 1.1 Recurring Charges

- (a) The Charges (which are recurrent in nature) payable in connection with the Services as identified in the Order including the charges for Licenses and Service Features/Feature Packs which shall be calculated in accordance with the rates and tariffs set out in the Order (as may be amended from time to time in accordance with these Service Terms) (**Recurring Charges**).
- (b) The Recurring Charges shall be payable monthly in advance.

#### 1.2 Call Tariff Charges

- (a) The Charges for all of your Calls conveyed using the Services which shall be calculated in accordance with the tariff which applies to your usage of the Services as stated in the Order (as may be amended from time to time in accordance with these Service Terms) (**Call Tariff Charges**).
- (b) The Call Tariff Charges will be based on the applicable rate at the times when Calls are initiated as follows:

| Rate            | Time Period  |
|-----------------|--|
| <b>Peak</b>     | 08.00.00 hours - 17.59.59 hours, Monday - Friday GMT/BST |
| <b>Weekend</b>  | 00.00.00 hours Saturday - 23.59.59 hours Sunday GMT/BST  |
| <b>Off-peak</b> | All other times  |

- (c) Calls on UK bank holidays are charged at the standard weekday rate and will be charged at the usual tariff rates for peak and off peak.
- (d) Where a Call overlaps between time periods, for the purposes of calculating the Call Tariff Charges for that Call, the whole Call will be charged at the rate applied when the Call was initiated.
- (e) The criteria by which the Call Tariff Charges are calculated is as follows:
  - (i) Calls are measured and billed in per second units depending on the tariff and individual Calls are calculated to 0.001 pence; and
  - (ii) the Call Tariff Charges are presented on your VAT invoice to two (2) decimal places and are rounded up to the nearest whole penny before VAT is applied.
- (f) We reserve the right to forward and bill Call Tariff Charges to you for a period of up to one-hundred and eighty (180) days from the original date of the

Call or charging period. Invoices for Call Tariff Charges will contain Calls made prior to 23:59:59 on the last day of the previous calendar month and any Calls which started prior to that time but end after 00:00 shall also be included in such invoice.

- (g) Any Calls made by you prior to the Order Commencement Date will be billed to you. We reserve the right to levy Call Tariff Charges for Calls made by you up to ten (10) days beyond the termination date of an Order.
- (h) There is no association between the ability of the Services to route a call type and the market price for that call type. It is possible that some call types routed through the Services will be at or above a Supplier's retail price in effect at the time. The rate card in use with the Services will be made available to you on request.
- (i) The Call Tariff Charges shall be payable monthly in arrears.

#### 1.3 Product Charges

- (a) The Charges which are payable for the supply of the Products by us as are notified to you from time to time (**Product Charges**).
- (b) The Product Charges shall be invoiced on despatch of the Products.

#### 1.4 Non-Recurring Charges

- (a) The Charges (which are one-off non-recurring charges) payable in connection with the Services which may be identified in the Order or otherwise payable under these Service Terms including the cost of site visits and which shall be calculated in accordance with the rates and tariffs set out in the Order (as may be amended from time to time in accordance with these Service Terms) or, where no such rates and tariffs are specified, in accordance with our charges communicated to you from time to time and on request (**Non-Recurring Charges**).
- (b) The Non-Recurring Charges shall be payable monthly in arrears.

#### 1.5 Other Charges

- (a) From time to time, there may be other charges or costs which we incur and we reserve the right to charge these charges and costs back to you and add them as itemised costs to this Schedule 3.