

## CARRIER PRE-SELECTION 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 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.

1.6 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 Order Commencement 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 17 and 18.

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 17 and 18.

### 3. Our obligations

3.1 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:
  - (i) it is not possible to provide Services that are free from defect, fault or interruption; and
  - (ii) provision of the Services has been determined and is governed by BT and that we and any Supplier rely upon BT's co-operation;

and accordingly we do not warrant or otherwise promise to provide the Services continuously or free from defects or faults, warrant as to the speed, quality or validity of the Services or accept any liability for Call Leakage which you suffer (unless caused directly by our action or negligent omission) and you accept that there may be technical limits relating to the Services as specified in these Service Terms;

- (b) use reasonable endeavours to provide the Services 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 lead or provisioning timescales provided in the Customer Services Guide are our best estimates but are for general guidance purposes only;
- (c) 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; and
- (d) 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).

3.2 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; 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 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.

### 4. Your obligations

4.1 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**

4.2 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;

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## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

- (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**

- 4.3 Without prejudice to the generality of clause 4.1 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 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; and
  - (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.

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

- 4.4 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.

### **5. Use of Customer Premises Equipment and other equipment**

- 5.1 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 and not harm the Services, 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 any of our other customers' network or equipment; and

- (b) be connected and used in accordance with any relevant instructions, standards, Applicable Law.

### **6. Service Levels**

- 6.1 We shall use reasonable endeavours to provide the Services in accordance with the Service Levels.

### **7. Provision of Support**

- 7.1 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.
- 7.2 We are not obliged to provide Support in relation to, or any faults that originate from, 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.
- 7.3 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.
- 7.4 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, we reserve the right to charge you for the time, materials and expenses incurred in relation to the investigation (including for any site visits) at our rates as may apply from time to time in respect of such Support.
- 7.5 Where you suffer a Service Fault or interruption in respect of the Services, we acknowledge that you are entitled to arrange for traffic to be redirected to another operator for the duration of the Service Fault and you agree that it is not our responsibility to arrange (or to pay for) the provision of alternative services in such circumstances.

### **8. Security obligations**

- 8.1 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 8.1(c) and to minimise the risk of such future breaches.
- 8.2 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; and

## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

- (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).
- 8.3 You acknowledge and agree that the Services, like other network-based services, may not be secure and that we do not guarantee the prevention or detection of any unauthorised attempts to access the Services and shall have no liability in respect of any technological attack (including denial of service attacks, viruses, worms and computer hacking) against the Services, any Customer Premises Equipment or otherwise. You are solely responsible for and should take such steps as you consider necessary to protect the Customer Premises Equipment and any of your software or systems against such risks.
- 8.4 We shall not be responsible for any Charges or costs resulting from any fraudulent use of the Services or Customer Premises Equipment or for any Calls made in breach of clause 4.3 whether by you or any other person and you agree to pay all additional Charges and costs related to such fraudulent or unauthorised use of the Services.
- 8.5 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.
9. **Making changes to the Services, Charges, Order and/or these Service Terms**
- 9.1 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; or
  - (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.
- 9.2 Except as set out in this clause 9, any changes to the Service Terms must be agreed by you and us in writing.
10. **Charges, invoicing and payment**
- 10.1 The Charges payable by you to us for the provision of the Services consist of:
- (a) the charges for the Services, including as a result of any Call Leakage, as set out in Schedule 2; and
  - (b) all charges for any other services, goods or property 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.
- 10.2 Each month we shall send to you an invoice for the aggregate Charges which are payable by you to us for that relevant month.
- 10.3 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.
- 10.4 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.
- 10.5 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.
- 10.6 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.
11. **Bonds and Credit Limits**
- 11.1 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 11.
- 11.2 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.
- 11.3 If we deduct an amount from the Bond in accordance with clause 11.2, 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 18.1(b).
- 11.4 Where the overdue amount deducted from the Bond in accordance with clause 11.2 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 11.5.
- 11.5 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 off-set any outstanding Charges or other amounts owed to us, whether under the Order or otherwise, without

## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

- prejudice to your liability to pay the balance of such amounts.
- 11.6 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
  - (c) you shall remain responsible for all Charges incurred, including those exceeding the credit limit.
12. **Warranties**
- 12.1 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; and
  - (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;
  - (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.
- 12.2 Except as expressly stated in these Services 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).
13. **Indemnities**
- 13.1 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 infringes any Intellectual Property Rights of a third party; or
  - (b) your breach of clauses 4.1 to 4.3 (inclusive) or 12.1.
- 13.2 We shall give you written notice promptly upon becoming aware of any claim pursuant to clause 13.1(a), but our failure or delay in doing so shall not reduce your liability under this clause 13, except to the extent (if any) that you are prejudiced by our failure or delay.
14. **Limitations on liability**
- 14.1 The Charges reflect the following limitations and exclusions of liability which you and we acknowledge and agree are reasonable in the circumstances.
- 14.2 Subject to clause 14.5, 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.
- 14.3 Subject to clause 14.5, 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) occurs during any period of Maintenance which is notified in accordance with the procedures as set out in the Customer Services Guide; or
    - (iii) 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 any Customer Premises Equipment, the Network or any third party telecommunications services (including BT), network or software; or
  - (d) any failure of the Services to provide any facility or function not described in these Service Terms.
- 14.4 Subject to clause 14.5 and except for any liability arising in relation to the payment of the 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 injury to reputation or wasted expenditure; or
  - (d) any indirect, consequential or special losses.
- 14.5 Nothing in these Service Terms shall operate so as to exclude or limit the liability of either you or us:
- (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.
- 14.6 You must bring any legal proceedings against us arising from or in connection with an Order within twelve (12)

## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

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.

(c) following, where reasonably practicable, prior notice, to undertake planned Maintenance or testing.

### 15. Events we cannot control

15.1 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:

16.2 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 16.1(a)(iii) to 16.1(a)(v) (inclusive).

(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;

16.3 Any period during which the Services are suspended, interrupted or limited in accordance with clause 16.1 shall not be taken into account in the calculation of any Service's compliance with any applicable Service Levels.

(b) continue to perform all of our obligations which have not been affected by the Force Majeure Event;

16.4 Any suspension, interruption or limiting of the Services shall not exclude our right subsequently to terminate an Order.

(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

### 17. Your rights to terminate an Order

(d) use all reasonable endeavours to mitigate the effects of the Force Majeure Event.

### 16. Our rights to suspend the Services

16.1 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:

17.1 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.

(a) without prior notice:

(i) to comply with an order, instruction or request of any governmental body, the Emergency Services or any Authority;

17.2 You may terminate an Order at any time on or after expiry of the Minimum Term by giving us not less than the Minimum Notice in writing.

(ii) if our ability (or that of any Supplier) to connect to any Customer Premises Equipment, or any third party services, network or software is withdrawn or compromised for any reason;

17.3 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 with immediate effect by notice in writing to us where:

(iii) 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 4.3, we reasonably believe you are in breach;

(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;

(iv) we have a right to terminate an Order in accordance with clause 18;

(b) we suffer an Insolvency Event;

(v) where a Supplier suspends, limits or interrupts the Services (in whole or in part) as a result of your acts or omissions; or

(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

(vi) where we reasonably consider it necessary as a reasonable and prudent provider of the Services;

(d) we are affected by a Force Majeure Event for three (3) months or more.

### 18. Our rights to terminate an Order

(b) following, where reasonably practicable, prior notice to make any change, modification, enhancement, replacement of or additions to any Services in accordance with clause 9.1; and

18.1 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 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 4.1 to 4.3 (inclusive), 11.1 or 11.3 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:

## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

- (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 18.1(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 16;
- (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) you have, in our reasonable opinion, committed fraud or engaged in any fraudulent or unauthorised use (whether actual or attempted) of the Services, or any software or systems of us, a Supplier or any other third party connected with or used in the provision of the Services;
- (j) 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
- (k) the Services (or any part of them) are no longer provided to us by a Supplier for any reason in which case we shall give you as much notice of discontinuance as is practicable under the circumstances.
- 19. What are the consequences of termination**
- 19.1 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) you shall cease to use the Services;
  - (c) all rights or licences granted to you pursuant to the Service Terms (including pursuant to clause 22.2) shall cease; and
  - (d) 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.
- 19.2** 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).
- 19.3** Termination does not affect the accrued rights or liabilities of either you or us and clauses 10, 11, 14, 19, 20, 21, 23, 24 and 25 will continue to be in force even if the Order has terminated.
- 20. Protecting Confidential Information**
- 20.1** 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.
- 20.2** 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 20.2 and shall at all times procure compliance by those employees with them.
- 21. Data Protection**
- 21.1** Both you and we agree to comply with all Applicable Law in relation to data protection, including the Data Protection Act 1998.
- 21.2** 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.
- 21.3** Without prejudice to clause 21.2, we will process data about you (including personal data) in accordance with our Privacy Policy.
- 21.4** For the purposes of this clause 21 "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.

## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

### 22. Intellectual Property Rights

- 22.1 You agree that all Intellectual Property Rights and other rights in the Services shall remain the property of us or our licensors.
- 22.2 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.
- 22.3 You shall not obtain ownership over any CLI or internet protocol (**IP**) address provided by us and/or any Supplier under any Order.

### 23. Notices

- 23.1 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

- 23.2 Each such notice shall be deemed to have been served:
- in the case of by hand and special delivery post, when actually received; or
  - if sent by special delivery post and returned marked gone away or to the like effect, on return of such special delivery mail; or
  - 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.

### 24. General Provisions

- 24.1 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).
- 24.2 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.
- 24.3 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.

- 24.4 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.
- 24.5 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.
- 24.6 Nothing in an Order shall or is intended or shall be construed to create a relationship of agency or partnership between you and us.
- 24.7 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.

### 25. Governing Law and Jurisdiction

- 25.1 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.
- 25.2 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).

### 26. Definitions and Interpretation

- 26.1 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;

**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;

**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 11;

**BT:** British Telecommunications plc a company registered in England and Wales (company number 1800000) with its registered office at 81 Newgate Street, London EC1A 7AJ and/or its agents or sub-contractors or such other supplier which determines and governs the Services;

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

**Version 1: 12 February 2015**

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## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

**Call Leakage:** where the Services are not utilised and Call traffic runs over BT's or another provider's network;

**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 10.1;

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

**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;

**Customer Premises Equipment:** telecommunications equipment, of a type approved under all Applicable Law and standards issued pursuant to that legislation and which may be used by you to access the Services;

**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;

**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;

**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:** twelve (12) months or such other period as is agreed in relation to the 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;

**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 Commencement Date:** the relevant date that we notify you that the Services which are the subject of an Order are ready for use;

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

**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 writing;

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

**Service Levels:** the service levels set out in Schedule 1;

**Services:** the provision of a carrier pre-selection (CPS) service that allows you to select, in advance, alternative communication providers (such as, by way of example only, BT) to carry the types of calls which they specify across the Network and terminate at the destination you call without having to dial a prefix or install any special equipment as more particularly set out in this Service Schedule;

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

Version 1: 12 February 2015

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## CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

**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 Schedule 1 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;

**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.

### 26.2 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.

# CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

## SCHEDULE 1

### Support and Service Levels

#### 1. Introduction

1.1 This Schedule 1 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 1 from time to time in accordance with these Service Terms.

1.2 The Service Levels set out in this Schedule 1 are targets only and we shall have no liability for a failure to meet them.

#### 2. Overview of Support

2.1 We shall provide support to you which shall include:

- all of your sales and service query handling;
- your billing queries;
- queries relating to Service set up; and
- simple technical queries.

2.2 Unless otherwise specified in this Schedule or agreed in writing between you and us, we shall only provide Support to you during Working Hours.

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

##### Service Levels

3.1 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 3 (including paragraph 3.5 below), we will endeavour to remedy Service Faults in accordance with the following Service Levels:

Priority	Priority 1 (Loss of Service)
Examples	Severe business impact to any area of your business
Initial Response	Within 2 Working Hours
Target for Partial Restoration	25% restoration within 3 Working Hours 50% restoration within 6 Working Hours 75% restoration within 6 Working Hours
Target for Full Restoration	Within 8 Working Hours

Priority	Priority 2 (Partial Loss of Service)
Examples	Network congestion affecting at least 60% of Calls from any one geographic area Post dialling delays exceeding 3 seconds affecting at least 50% of Calls Individual or small group, total or partial loss of the Services
Initial Response	Within 4 Working Hours
Target for Partial	50% restoration within 6

Restoration	Working Hours
Target for Full Restoration	Within 12 Working Hours

Priority	Priority 3 (Quality of Service)
Examples	Multiple attempts to make Calls fail to reach a single destination Bad quality of Calls (echo, clipping, static, fading, silence)
Initial Response	Within 6 Working Hours
Target for Partial Restoration	N/A
Target for Full Restoration	Within 24 Working Hours

Priority	Priority 4 (Enquiries)
Examples	Individual failures or enquiries relating to provisioning or billing
Initial Response	Within 6 Working Hours
Target for Partial Restoration	50% restoration within 12 Working Hours
Target for Full Restoration	Within 36 Working Hours

##### Service Fault Management

- 3.2 Service Faults should be raised in accordance with the procedure set out in the Customer Services Guide.
- 3.3 Request for Support are managed according to the priority of the issue. Service Fault priority will be allocated by us in our absolute discretion.
- 3.4 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.

##### Support Service Exclusions and Limitations

- 3.5 The Service Levels described in this Schedule 1 shall not apply if any of the following conditions contribute either wholly or partly to a failure to achieve the stated target:
  - failure during any period of planned Maintenance or other scheduled work;
  - a failure of, or fault of, equipment not covered by the defined Services;
  - a failure of, or fault of your hardware or other equipment;
  - your failure to operate the Services in accordance with these Service Terms;
  - 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;

Version 1: 12 February 2015

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**CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS**

- (f) 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
  - (g) 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).
- 3.6 We shall not be responsible for faults on Customer Premises Equipment or BT's lines to Premises where applicable.

# CARRIER PRE-SELECTION SERVICES GENERAL TERMS AND CONDITIONS

## SCHEDULE 2

### Charges

1. **Charges**
- 1.1 **Call Tariff**  
The tariff which applies to your usage of the Services and in accordance with which the Charges shall be calculated as stated in the Order (as may be amended in accordance with these Service Terms).
- 1.2 **Call Leakage Tariff**  
The tariff which applies to your usage of the Services and in accordance with which the Charges for any Call Leakage shall be calculated as stated in the Order (as may be amended in accordance with these Service Terms).
- 1.3 **Other Charges**  
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 2.
- 1.4 Unless otherwise stated in the Order and/or these Service Terms, the Charges shall be payable monthly in arrears.
2. **Calculation of the Charges**
- 2.1 The Charges will be based on the applicable rate at the times when Calls are initiated as follows:
- | Rate     | Time Period  |
|----------|--|
| Peak     | 08.00.00 hours - 17.59.59 hours, Monday - Friday GMT/BST |
| Weekend  | 00.00.00 hours Saturday - 23.59.59 hours Sunday GMT/BST  |
| Off-peak | All other times  |
- 2.2 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.
- 2.3 Where a Call overlaps between time periods, for the purposes of calculating the Charges for that Call, the whole Call will be charged at the rate applied when the Call was initiated.
- 2.4 The criteria by which the Charges are calculated is as follows:
- (a) Calls are measured and billed in per second units depending on the tariff and individual Calls are calculated to 0.001 pence; and
- (b) the 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.
- 2.5 We reserve the right to forward and bill 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 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.
- 2.6 Any Calls made by you prior to the Order Commencement Date will be billed to you. We reserve the right to levy Charges for Calls made by you up to ten (10) days beyond the termination date of an Order.
- 2.7 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.