

## 1. DEFINITIONS

In this agreement the following terms shall have the following meanings.

- 1.1. LCC refers to LCC Communications Limited, a company registered in England with company number 03321821 whose registered office is situated at Sopwith House, Sopwith Close, Preston Farm Business Park, Stockton-on-Tees, TS18 3TT
- 1.2. CUSTOMER refers to the business or end user of the service provided by LCC.
- 1.3. AGREEMENT refers to this agreement and any Registration Form between you and LCC for the procurement of services.
- 1.4. CONTRACT EFFECTIVE DATE means the date when your Service is entered into LCC's computerised records.
- 1.5. SERVICE means the service or services indicated on the Service Agreement.
- 1.6. EQUIPMENT means any equipment provided by LCC for use at the customers premises.
- 1.7. WEBSITE refers to LCC's company website <http://www.lcccommunications.com/>
- 1.8. Unless the context otherwise requires, words in the singular shall include the plural and words in the plural shall include the singular.
- 1.9. DATA PROTECTION LEGISLATION: The Data Protection Act 1998 and unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and any successor legislation to the GDPR or the Data Protection Act 1998.
- 1.10. Personal Data: means any information relating to an identified or identifiable natural person ('Data Subject'); an identifiable natural person is one who can be identified, directly or indirectly.
- 1.11. The term Service Agreement will mean Contract and the term Contract will mean Service Agreement

## 2. TERMS AND CONDITIONS

- 2.1. These Terms and Conditions are used with both Business Customers and Consumer Customers. Consumer Customers have legal rights in relation to goods and services. Advice about the Consumer Customer's legal rights is available from the Consumer Customer's local Citizens' Advice Bureau or Trading Standards Office. Nothing in these Terms and Conditions will affect these legal rights.
- 2.2. The Customer warrants, represents and undertakes to LCC that all information provided by the Customer including information submitted in connection with the Application shall be true, accurate and complete and the Customer shall immediately notify LCC if any information becomes untrue, inaccurate, incomplete or misleading. The Customer acknowledges that LCC has been induced to enter into the Contract in reliance on the information provided by the Customer.
- 2.3. LCC may change these Terms and Conditions from time to time. Publication of any variation or addition by such means as LCC may reasonably select shall constitute effective notification to the Customer. The Customer should regularly check the Website for any variation or additions. In the event that the Customer does not wish to be bound by any changes to the Terms and Conditions, the Customer shall contact LCC and terminate the Contract pursuant to clause 4.1.

### 3. PROVISION OF SERVICE

- 3.1. LCC agrees to provide the Service to the Customer and the Customer agrees to use the Service on the terms of this Agreement. Unless specifically stated otherwise, you may cancel any service after any minimum term period by giving us a minimum of 30 days written notice.
- 3.2. LCC will use all its reasonable endeavours to ensure that the Services are available for use by the Customer in accordance with the Service standards for the time being set out in LCC's service literature.
- 3.3. LCC shall be entitled to:
  - 3.3.1. Change the technical specification of any of the services (provided that any such changes does not materially affect the performance of the services) where necessary for operational reasons, or by reason of statutory or regulatory requirements; and
  - 3.3.2. Suspend any of the services for operational reasons, or in an emergency, or in accordance with clause 9.
- 3.4. Certain services are provided by LCC on the terms of separate contracts. If you enter into a separate contract with LCC in relation to the provision of any Services, the terms of that separate contract shall take priority over these Conditions. The Services in relation to which LCC currently uses separate contracts are Broadband and Voice over IP (VOIP) Hosted Services.
- 3.5. LCC does not warrant that the services will be free from faults or free from interruptions, and shall not be liable for any failure to maintain the services whether this arises from a technical failure or otherwise. LCC will however use all reasonable endeavours to remedy any fault which significantly impairs performance of the services as soon as reasonably practicable following LCC becoming aware of any such fault or being notified of the same by the Customer.

### 4. TERM & TERMINATION

- 4.1. The Contract shall continue in full force and effect until terminated in accordance with this clause 4.
- 4.2. In all circumstances other than the Broadband Services and Hosted Services options (see below for additional Terms and Conditions for Broadband customers and Hosted Services), this Agreement will commence on the Contract Effective Date and shall continue for a minimum period of 30 days unless noted otherwise on the Agreement. The Agreement will automatically renew for further rolling 30 day periods.
- 4.3. You may terminate this Agreement after the initial term period by giving us a minimum 30 days written notice. You should write to us at: LCC Communications Ltd, Sopwith House, Sopwith Close, Preston Farm Business Park, Stockton-on-Tees TS18 3TT or via email to support@lcccommunications.com.
  - 4.3.1. In these circumstances, you agree to pay LCC any monies owing. LCC will return any deposit held.
- 4.4. Without prejudice to its rights under this Agreement, LCC may terminate or suspend this Agreement immediately if there is a breach by you of this Agreement, including:
  - a) Breach of any term of the Contract
  - b) misuse of the Service;
  - c) using the Service in a manner that adversely affects the provision of the Service to others;

- d) non payment of any sums owed to LCC;
  - e) if you become bankrupt or have a receiver, administrative receiver, administrator or liquidator (or similar officer) appointed over you or any of your assets;
  - f) it becomes unlawful for LCC to provide the Service; and
  - g) any other licenced operator supporting the LCC Service ceases to do so for whatever reason or changes the terms of its provision of telecommunications services beyond the reasonable control of LCC.
- 4.5. Upon termination or suspension you agree to cease using the Service immediately and your right to use the Service ceases immediately.

## 5. EQUIPMENT

In the event that LCC agrees to loan or let on hire any equipment as described and the Customer agrees to the loan or rent of such equipment from LCC for the term specified, the following terms and conditions shall apply:

- 5.1. LCC shall deliver or arrange to deliver the equipment to the Customer. Any delivery date specified shall be treated as an estimate only and whilst LCC will take all reasonable steps to deliver within the period quoted, such date shall be treated as an estimate only and shall not be a term of this Agreement. LCC accepts no liability for failure to meet the delivery date.
- 5.2. The equipment shall at all times remain the property of LCC and at all times when the ownership of the equipment is in question, the customer shall advise any third party that the equipment is the property of LCC
- 5.3. The Customer shall be responsible for the equipment whilst it is in the Customer's custody and shall indemnify LCC against any loss or damage to the equipment save that the Customer shall not be responsible for any loss or damage attributable to the wilful act, fault or omission of LCC. It shall be the responsibility of the Customer to notify LCC immediately of any loss or damage to the equipment.
- 5.4. Upon notification of a fault, LCC shall use its reasonable endeavours, during LCC's normal working hours, to attend to such fault PROVIDED THAT the fault has arisen from normal use of the equipment.
- 5.5. LCC has no responsibility for faults resulting from:
  - 5.5.1. the Customer's negligence or default; or
  - 5.5.2. any act or omission associated with any other telecommunications system not run by LCC; or
  - 5.5.3. any other cause beyond the control of LCC.
- 5.6. LCC shall have the right to charge the Customer in the event that the need for maintenance results from any of the events in Condition 3.5.
- 5.7. The Customer agrees not to carry out or procure the carrying out of any alterations, modifications, replacement, extensions, attachments, additions or otherwise after the equipment except with the prior written consent of LCC, which consent will not be unreasonably withheld.
- 5.8. LCC reserves the right to charge the Customer for all costs incurred as a result of carrying out maintenance or repair work, which in LCC's reasonable opinion is considered unnecessary.

## 6. USE OF THE SERVICE

- 6.1. You represent, undertake and warrant to LCC that you will use the Services provided by LCC only for lawful purposes. In particular, you represent, warrant and undertake that:
- 6.1.1. you will not use the Services in any manner which infringes any law or regulation or which infringes the rights of or, causes annoyance, inconvenience or needless anxiety to any third party, not will you authorise or permit any other person to do so:
  - 6.1.2. you will use the Service in accordance with such conditions as may be notified in writing to the Customer by LCC from time to time.

## 7. PAYMENT & PRICING

- 7.1. The Customer, unless otherwise specified, shall be invoiced monthly by LCC for all charges under this Agreement plus Value Added Tax at the current rate. Payment is due within thirty days of the invoice date. The time of the payment of all sums due to LCC under this Agreement shall be of the essence of this Agreement. If payment in full is not received by LCC upon the due date:
- 7.1.1. LCC shall be entitled to levy a late payment charge at the rate of 1.5% per month on any unpaid overdue balance.
  - 7.1.2. LCC shall be entitled to levy an administration fee in respect of time spent and costs incurred by LCC in taking steps to recover payment of the due sums.
  - 7.1.3. LCC shall be entitled to withhold or suspend the provision of Services to you.
- 7.2. Pricing for the service shall be as stated in LCC's information as current from time to time and available upon request from Customer Services on 0800 6522256.
- 7.3. All sums due to LCC under this Agreement shall be paid in full by the Customer without any set-off whatsoever.
- 7.4. All charges payable under this Agreement shall be calculated by reference to data recorded or logged by LCC and not reference to data recorded or logged by the Customer.
- 7.5. LCC shall be entitled to levy a monthly rental fee for equipment.
- 7.6. LCC shall be entitled to levy an installation fee for equipment.
- 7.7. LCC at its sole discretion, shall be entitled to charge an administration fee which will be a minimum of £5.00 per report, when requested to provide duplicate billing reports.
- 7.8. LCC shall be entitled to levy a change of order charge in the event that the Customer makes such a request to change an order after it has been submitted to LCC. This will be applied when LCC's suppliers levy such a charge.
- 7.9. LCC reserves the right to levy a charge for support or administration which is deemed by LCC to be outside the scope of normal services. This may include any support out of office hours, support or administration not directly related to the restoration of a service LCC shall be entitled to charge an administration fee when a customer's only LCC product is a non-geographic number (08 or 03) incoming call service.
- 7.10. LCC will only consider billing queries from the Customer if made within six months of the date of LCC's invoice/credit note
- 7.11. Where the Customer is required to make payment to LCC by direct debit, the Customer shall ensure that it has sufficient cleared funds available to enable the direct debit payment to be made.
- 7.12. Where payment by direct debit falls due on a non-business day, LCC reserves the right to collect the payment on the previous business day.
- 7.13. No payments shall be deemed to have been received until LCC has received payment in full in cleared funds.

- 7.14. LCC reserves the right in its absolute discretion to levy an administration fee for the rejection or cancellation of any direct debit.
- 7.15. LCC reserves the right to levy an additional administration charge of £5.00 for each month that a customer's invoice does not total £5.00 including vat.
- 7.16. This pricing term applies to LCC Services including Mobile, Broadband, PSTN and Hosted and is incorporated into the Commercial Terms between LCC Communications Ltd (LCC) and The Customer and, together with the General Terms, Broadband Service Terms and Hosted Terms, shall form the Agreement for the LCC Service. All Charges exclude VAT. Subject to change in January of each year. Notice of price changes will be included by way of The Customer's previous December's billing.

## 8. PROVISION OF INFORMATION

- 8.1. The Customer undertakes promptly to provide LCC, free of charge, with all information and cooperation that LCC may reasonably require to enable it to proceed without interruption with the performance of its obligations under this Agreement.

## 9. SUSPENSION OF SERVICE

LCC may at its sole discretion elect to suspend forthwith the provision of the Service until further notice without liability to the Customer on notifying the Customer either orally, (confirming the same in writing) or in writing in the event that:

- 9.1. the Customer is in breach of any term of this Agreement; or
- 9.2. the Customer prevents or delays prearranged maintenance from being carried out; or
- 9.3. The Customer is suspected, in LCC's reasonable opinion, of involvement with fraud or attempted fraud in connection with the use of the Service

## 10. DATA PROTECTION

- 10.1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This section is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 10.2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Company is collecting Personal Data for use in providing the Services and as such act as Data Controller, the Customer may also share some Personal Data about Users, including its employees and other who have access to use of Services for which the Company are responsible (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation).
  - a) the scope of processing by LCC of Personal Data is limited to processing in the UK, by LCC and its third party service providers, to facilitate the provision, monitoring and development of the Services and for ensuring compliance with the Terms and Conditions; the nature and purpose of processing of Personal Data by LCC is the facilitation of the Services;
  - b) the duration of the processing is limited to the duration of the provision of the Services and any further period as may be necessary to fulfil legal obligations (for example records of call information for VAT and accounting purposes and to protect against fraud); and
  - c) the types of Personal Data processed include Personal Data records relating to the Customer and Users.

- 10.3. The Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to Company for the duration and purposes of the arrangement under these Terms and Conditions.
- 10.4. LCC shall, in relation to any Personal Data processed in connection with the performance by LCC of its obligations under these Terms and Conditions relating to provision of Services:
- a) process that Personal Data only on your written instructions unless LCC are required to do so in accordance with meeting its legal obligations.
  - b) ensure that it has in place appropriate technical and organisational measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
  - c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
  - d) not transfer any Personal Data outside of the European Economic Area unless the Customers prior written consent has been obtained and the following conditions are fulfilled:
    - (i) The Customer or LCC have provided appropriate safeguards in relation to the transfer;
    - (ii) The Data Subject has enforceable rights and effective legal remedies as may be required to be made available by law from time to time;
    - (iii) LCC complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
    - (iv) LCC complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
  - e) at the Customers written direction, delete or return Personal Data and copies thereof to the Customer on termination of the licence unless required by Applicable Law to store the Personal Data;
  - f) maintain complete and accurate records and information to demonstrate its compliance with this section.
- 10.5. LCC and the Customer will assist each other (at their own cost), in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 10.6. Where a party is the Data Processor in respect of relevant Personal Data notify the Data Controller without undue delay and in any event within 72 hours on becoming aware of a Personal Data breach;
- 10.7. You consent to LCC appointing hosting service providers as a third-party processor of Personal Data under these Terms and Conditions. LCC confirms that it has entered or (as the case may be) will enter with any third-party processor into a written agreement incorporating terms which are substantially similar to those set out in this section. As between the Customer and LCC, LCC shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this section, but always subject to these Terms and Conditions and any limitations of liability or obligation contained in them.

- 10.8. LCC may, at any time on not less than 30 days' notice, revise this section by replacing it with any applicable controller to processor standard sections or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).
- 10.9. LCC may, for the Customer's security record telephone calls between LCC and the Customer. LCC will only do this to ensure that it is providing a high quality service.

## 11. LIABILITY

- 11.1. Consumer Customers have legal rights in relation to goods/services that are faulty, not as described and/or not supplied with reasonable skill and care (as appropriate). Advice about the Consumer Customer's legal rights is available from the Consumer Customer's local Citizens' Advice Bureau or Trading Standards Office. Nothing in these Terms and Conditions will affect these legal rights.
- 11.2. Nothing in the Agreement shall exclude or restrict LCC's liability for death or personal injury resulting from the negligence of LCC or its employees while acting in the course of their employment.
- 11.3. Subject to Condition 11.4, LCC shall be liable for damage to the property of the Customer caused by any negligent act or omission of LCC or its employees provided that such liability of LCC in contract, tort or otherwise, including any liability for negligence, howsoever arising out of or in connection with the performance of LCC's obligations under this Agreement shall be limited to £20,000 for any one incident or £50,000 for any series of incidents arising from a common cause in any twelve month period.
- 11.4. LCC shall not be liable to the Customer in contract tort or otherwise, including any liability for negligence, for any loss of revenue, business, anticipated savings or profit or any indirect or consequential loss howsoever arising.
- 11.5. In the event of any failure of the Service, LCC shall not be liable to the Customer for any charges incurred by the Customer to divert its traffic to another carrier or number.
- 11.6. The provisions of this Condition 11 shall continue to apply notwithstanding the termination of this Agreement.
- 11.7. LCC shall not be liable in any circumstances for making good Customer premises in the event of removal of equipment.

## 12. GENERAL

- 12.1. This Agreement may not be assigned in whole, or in part, by the Customer without the prior written consent of LCC, such consent not to be unreasonably withheld
- 12.2. Neither party shall be under liability whatsoever to the other for failure or delay in the performance of any of its obligations hereunder if and for so long as such performance becomes impracticable by reason of Force Majeure, except that the Customer shall still be liable to pay any sums which have become payable by the Customer under the Contract. The party which is prevented from performing its obligations hereunder by Force Majeure shall advise the other party as soon as practicable of its inability to meet its obligations specifying the cause of the force majeure and shall advise the other party when such difficulty ceases.
- 12.3. Customers using the LCC Broadband Service and Hosted Service are subject to the LCC Broadband terms and conditions and Hosted Service terms and conditions published on the LCC web site at [www.lcccommunications.com](http://www.lcccommunications.com) otherwise this Agreement represents the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes all prior understanding and representations, whether written or oral

and this Agreement may only be modified if such modification is in writing and signed by LCC and the Customer.

- 12.4. Failure of LCC to exercise or enforce any right conferred by this Agreement shall not be deemed to be a waiver of any such right not operate so as to bar the exercise or enforcement thereof, or of any other right on any later occasion
- 12.5. Any notice, invoice or other document which may be given by LCC under this Agreement shall be deemed to have been given if left at or sent by post, email or facsimile transmission (confirming the same by post) to an address notified by the other party in writing as an address to which notices, invoices or other documents may be sent.
- 12.6. Any dispute relating to this Contract shall be notified in writing to LCC within 14 days from the earlier of the date of the statement or invoice to which the dispute relates or the date on which the Customer became aware (or ought to have been aware) of the dispute. Thereafter, all statements and invoices shall be deemed to be final and conclusive and the Customer waives its right to dispute such statements and invoices.
- 12.7. Should the Customer have a complaint regarding LCC, both parties should follow the procedure set out in the Code of Practice on Complaint Handling and Dispute Resolution on the website.
- 12.8. LCC's address for service of any notice hereunder shall be such address as appears on the last invoice rendered to the Customer or such other address as may be prescribed by LCC for that purpose
- 12.9. This Agreement shall be governed by and construed and interpreted in accordance with English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

**For our broadband customers the following terms and conditions apply IN ADDITION to those above.**

### 13. DEFINITIONS

In this agreement the following terms shall have the following meanings.

- 13.1. BROADBAND EQUIPMENT means any equipment supplied by LCC or any third party to you to enable provision of the Broadband under this Agreement.
- 13.2. CUSTOMER SERVICE DESK means people acting on behalf of LCC Communications to respond and deal with Customer Broadband queries, issues and requests.
- 13.3. MINIMUM PERIOD refers to the first 12 months of Service.
- 13.4. PREMISES refer to the premises where LCC Broadband Service is to be received.
- 13.5. ACT refers to the Telecommunications Act 1984.

### 14. PROVISION OF SERVICE

- 14.1. You may not:
  - 14.1.1. Redistribute, encumber, sell, rent, lease, sub-licence, copy or use the service or otherwise transfer rights to the use of the Service to any third party, whether in whole or in part; or
  - 14.1.2. use the Service except in conjunction with our recommended operating environment; or
  - 14.1.3. modify the Service without our prior written consent

### 15. TERM & TERMINATION

- 15.1. This Agreement will commence on the Contract Effective Date and the Agreement shall continue for a minimum period of 12 months the Agreement will automatically renew for further consecutive 12-month periods, subject to the provisions of this Clause 15.
- 15.2. Early termination by you prior to the completion of the minimum period, will be charged based upon the total rental that would otherwise have been charged had the minimum period been completed less any charges previously raised. For the avoidance of doubt, the minimum charge for the broadband service will be for the total minimum period of the Agreement.
- 15.3. In addition to early termination charges referred to in clauses 16.1 and 15.2, LCC will make a cease charge if you terminate this contract at any time. For current charges please contact LCC.
- 15.4. If you wish to cancel the Agreement for the Broadband Service or any part of it, you have up until the Contract Effective Date to do so. You must tell us in writing and return, in an "as new" condition and in the original packaging, the broadband Equipment and any additional items supplied by us to you, at your cost. If you do not return the broadband Equipment and any associated items you have purchased in an "as new" condition, we will not refund any payment that you have made in respect thereof. After the start date of the Agreement the cancellation provisions of the Consumer Protection (Distance Selling) Regulations 2000 (the "Distance Selling Regulations") will not apply to the Service.

## 16. BROADBAND EQUIPMENT

- 16.1. You shall be responsible for the safekeeping and proper use of the broadband Equipment whilst at your premises. All broadband Equipment supplied free of charge by LCC remains the property of LCC and in the event of this Agreement being terminated prior to the minimum contract period, it will be charged for at the cost to LCC in providing the Equipment including postage and packaging to you plus an administration charge of £10. LCC offer technical support on all modems and routers purchased during the registration process. If you choose to use your own equipment we may need to refer you back to your supplier for technical advice. You undertake;
  - 16.1.1. to inform all relevant third parties that you are responsible for the broadband Equipment;
  - 16.1.2. to fully comply with either LCC's or the manufacturer's instructions for installation and use and not to use the broadband Equipment except in accordance with such instructions
  - 16.1.3. not to attach any devices or attachments other than those approved for such use under the Act;
  - 16.1.4. not to remove or tamper with any identification marks affixed to the broadband Equipment.
  - 16.1.5. You shall be liable for any loss or damage howsoever caused to any part of the broadband Equipment or any of your own property within your premises (except where it can be shown that loss or damage was caused by an act of negligence by LCC). You shall notify LCC immediately of any such loss or damage.

## 17. USE OF THE SERVICE

- 17.1. You hereby give permission to LCC and its employees, agents and contractors on request & reasonable notice to:
  - 17.1.1. execute any works on your Premises for, or in connection with the maintenance, adjustment, repair or alteration to either the Service or the broadband Equipment;

- 17.1.2. keep and operate broadband Equipment at your Premises; and
- 17.1.3. enter the Premises to inspect any broadband Equipment.
- 17.2. You must agree not to alter or allow anything to be done to the Premises, which may damage or interfere with the broadband Equipment.
- 17.3. LCC will use all reasonable endeavours to comply with your requests in relation to the installation of the broadband Equipment and Service.
- 17.4. We will endeavour to provide the Service on the date agreed between you and ourselves. However the Service provision date is only an estimate and LCC shall not be liable for any failure to meet such a date.
- 17.5. You must at your own expense provide suitable accommodation, facilities, assistance and environmental conditions for the broadband Equipment and you must ensure all necessary electrical and other fittings are in place and in working order.
- 17.6. A secure power supply is required at your premises. This must be provided and maintained by you. LCC will not be held responsible for any interruption or failure of the Service caused by power supply failure.
- 17.7. You shall be responsible for the repair and maintenance of any Customer Equipment used by you in order to use the Service. You will need to have a telephone line and a personal computer of minimum specification
- 17.8. You shall ensure that any Customer Equipment complies with any applicable law.
- 17.9. You must not use the Service:
  - 17.9.1. to send, download, upload, use or re-use material that is abusive, indecent, defamatory, obscene or menacing, in breach of copyright or is in any other way unlawful or which contains viruses, worms, trojan horses or similar, or which may otherwise harm or damage the LCC network;
  - 17.9.2. in connection with the carrying out of a fraud or other criminal offence;
  - 17.9.3. in a way that does not comply with the terms of any legislation; or
  - 17.9.4. In a way which does not comply with instructions given by LCC or its agents/contractors.
- 17.10. Without prejudice to the other rights granted under this Agreement, we will be entitled to suspend the Service or terminate the Agreement immediately if we have a reasonable belief that you are in breach of clause 17.9.

**For our hosted services customers the following terms and conditions apply IN ADDITION to those above**

#### HOSTING SERVICES

#### DEFINITIONS

In this agreement the following terms shall have the following meanings.

- 18.1. "Hosted Data" means the data which is hosted pursuant to the Hosting Services;
- 18.2. "Hosting Services" means the voice over IP (VOIP) hosting services more particularly detailed in a Service Agreement Form (as modified or substituted from time to time) to be provided hereunder by the Company to the Customer. Additional hosting services may be requested in writing by letter, facsimile or email from the Customer to the Company, and will become subject to these terms and conditions.
- 18.3. MINIMUM PERIOD refers to the first 36 months of service

#### TERM AND TERMINATION OF HOSTING SERVICES

- 18.4. The condition referred to in condition 3.4 is that the Company provides confirmation by email to the Customer that the terms stated on the Service Agreement Form of the applicable Contract for Hosting Services do not contain any errors.
- 18.5. Subject to earlier termination in accordance with its terms, the Contract for Hosting Services shall run for the Minimum Term. Upon the expiry of the Minimum Term, or any anniversary thereafter, the Contract in relation to the Hosting Services will renew automatically for a for a further period of twelve months (a "Rollover Period").
- 18.6. The Customer may terminate the Contract in relation to the Hosting Services by giving ninety days' notice in writing to the Company, such notice to become effective no earlier than the expiry of the Minimum Term or upon each anniversary of such date thereafter (as applicable). If the Customer does not elect to give notice to terminate the Contract during the Rollover Period, the Contract will continue to automatically renew for subsequent Rollover Periods on each anniversary of the date of the expiry of the Minimum Term.
- 18.7. **PROVISION OF HOSTING SERVICES**
- 18.7.1. In consideration of (and subject to) the payment of the Annual Hosting Charge by the Customer, the Company shall use reasonable endeavours to provide the Hosting Services from the Contract Effective Date subject to these Conditions. The Hosting Services may not be fault free and may not be uninterrupted. Additionally, the Customer shall use all reasonable efforts wherever possible to assist the Company to analyse and rectify faults during remote fault investigations.
- 18.7.2. The Company will use reasonable endeavours to rectify any fault in the Hosting Services as soon as practicable however the Company shall have no liability to the Customer for any fault occurring, or any interruption to the Hosting Services whether in contract, tort (including without limitation negligence or breach of statutory duty) or otherwise, howsoever caused including but not limited to atmospheric conditions; any congestion, fault, interruption or interference with the network; any fault, interruption or interference with the power supply to the network, any act or omission by a Carrier or other service provider, or any known or unknown viruses which cause interruption or interference. Where the Company has provided hardware to the Customer, all fault investigations will be carried out remotely by the Company or the Hosting Services Help Desk.
- 18.7.3. The Customer shall:
- 18.7.3.1. not use the Hosting Services to make, provide, communicate, deliver, knowingly receive, upload, download, publish, use or re-use any material or information which is intended to be a hoax or is of a defamatory, offensive, abusive, indecent, obscene or menacing character, or which does or is intended to cause annoyance, nuisance inconvenience or worry to any person or which in the Company's opinion brings the Company's name into disrepute or which in any way causes damage to or disruption to the Hosting Services;
- 18.7.3.2. not use the Hosting Services in a manner which constitutes a violation or infringement of the rights of any other person;
- 18.7.3.3. implement adequate control and security over the use of the Hosting Services provided to the Customer including but not limited to the prevention of viruses, worms, Trojan horses and/ or any access to the Hosting Services by hackers;
- 18.7.3.4. not use the Hosting Services in a way that breaches any Relevant Laws, any guidelines, regulations or instructions of any regulator or any licence applicable to the Customer or that is in any way unlawful or fraudulent;

- 18.7.3.5. not conduct any unauthorised monitoring of, or access to, or use of data, networks or systems, including any attempt to probe, scan or test the vulnerability of a network and/or system or to breach security or authentication measures without proper authorisation;
  - 18.7.3.6. not interfere with, disrupt or disable any service to any user, host or network via means including but not limited to overloading, flooding, mail-bombing, denial of service attacks or crashing;
  - 18.7.3.7. not use manual or electronic means to avoid any use limitations placed on a system, such as access or storage restrictions; and
  - 18.7.3.8. not attempt to circumvent or alter any method of measuring or billing for the Hosting Services.
- 18.8. The Hosting Services are provided solely for the Customer's use and the Customer may not resell or attempt to resell the Hosting Services (or any part of them) to any third party.
- 18.9. The Company shall not be liable to the Customer for any interruption or other failure in the Hosting Services to the extent that such interruption or failure arises directly or indirectly from:
- 18.9.1. the IT Equipment, the Customer's network or system or any part thereof;
  - 18.9.2. any act or omission of the Customer, its agents, representatives or users;
  - 18.9.3. the Customer's breach of the Contract;
  - 18.9.4. the Customer's failure or delay in complying with the Company's reasonable instructions and/or failure or delay in providing assistance or information requested by the Company ;
  - 18.9.5. anything beyond the reasonable control of the Company as defined more particularly in condition 13.4;
  - 18.9.6. planned outages, server relocation, or maintenance advised to the Customer by the Company;
  - 18.9.7. server maintenance or application maintenance carried out by the Customer or by the Company on the Customer's instructions; and/or
  - 18.9.8. suspension of the Hosting Services in accordance with the Contract.
- 18.10. The Company may at any time change the location of the Facility in which Hosting Services are performed upon notice to the Customer.
- 18.11. In the event of termination or expiry of a Contract for Hosting Services, the Company shall (at the Company's option) return or delete all data which is held by the Company in connection with the Hosting Services, except data which the Company is entitled to retain in accordance with a Contract. Save in the event of expiry, or termination by the Company without cause, the Customer shall be liable for all costs which the Company incurs in returning or deleting the Hosted Data.
- 18.12. Unless the Customer purchases back-up services from the Company, the Company shall not be obliged to perform a back-up or otherwise replicate any of the content which the Customer provides to the Company as part of the Hosting Services.
- 18.13. Notwithstanding any other provision of this Contract, the Customer's sole and exclusive remedy for any breach of this condition 18 by the Company and/or for any negligence, default or breach of duty by the Company which leads to loss or corruption of Hosted Data shall be for the Company to use its reasonable endeavours to restore the Hosted Data to the most recent unimpaired and uncorrupted generation of Hosted Data (where available) created prior to such breach, negligence or default.
- 18.14. Notwithstanding anything to the contrary in the Contract, the Company shall be entitled to make changes to the Hosting Services (or any part thereof) which do not have a materially detrimental effect on the Hosting Services and shall where the Company deems it practical to do so give the Customer written notification of the same.

- 18.15. The Customer warrants, represents and undertakes that it is the owner of, or that it is authorised by the owner of, (and has the right to use) any trade mark or name that the Customer wishes to use as or in its registered domain name (or any of them) ("Domain Names") and/or as part of the Customer's uniform resource locator ("URL").
- 18.16. If the Company undertakes Domain Names and/or URL registration on behalf of the Customer, the Customer will reimburse the Company for any registration fees paid by the Company to the relevant internet registration authorities. The Company does not guarantee that any Domain Names or URL requested by the Customer will be available. The Customer acknowledges and agrees that the registration of the requested domain name and its ongoing use by the Customer shall be subject to the relevant naming authority's terms and conditions of use (e.g. Nominet UK set out at <http://www.nominet.org.uk/uk-main-names/registering-uk-domain/legal-details/terms-and-conditions-domain-nameregistration>, Network Solutions set out at [tp://ftp.networksolutions.com/partners/Agreements/NetworkSolutionsServiceAgreement.pdf](http://ftp.networksolutions.com/partners/Agreements/NetworkSolutionsServiceAgreement.pdf), CentralNic set out at <https://www.centralnic.com/support/terms/domains> and JANET set out at <https://community.ja.net/library/janet-services-documentation/>) and the Customer hereby undertakes and warrants to comply with such terms and conditions. The Company shall not be responsible for investigating whether or not the requested Domain Name and/or URL will infringe any third party Intellectual Property Rights and the Company accepts no responsibility whatsoever in respect of the use of the Customer's requested domain name by the Customer or any other person. Any dispute between the Customer and any third party (including without limitation any naming authority) regarding a domain name must be resolved between such parties and the Customer shall indemnify the Company against any such action. The Company will take no part in any such dispute unless required to do so by law. On becoming aware of such a dispute concerning a domain name the Company hereby reserves the right at its sole discretion without notice to suspend or cancel the relevant Services associated with the domain name dispute.
- 18.17. The Company may require the Customer to select replacement Domain Names or URL and may either refuse to provide or may suspend the Services if the Company reasonably believes that the Domain Names or URL is, or is likely to be, offensive, abusive, defamatory or obscene or infringe the rights of a third party.