



Connectivity for Business

VSL GENERAL TERMS AND CONDITIONS - Version 11.08.16

1 DEFINITIONS

In this Contract:

"Acceptable Use Policy" means our policy for the use of internet related services, as set out on our Website, such as may be revised by us from time to time by posting any updated version on our Website.

"Authorisation" our authorisation to provide communications networks and services pursuant to the OFCOM general authorisation regime.

"Average Monthly Call Charges" the average monthly call charges calculated by reference to your last three-monthly bills.

"Cancellation Charge" the charge for your cancellation or our termination (pursuant to clause 15.1) of the Services prior to the end of the Initial Term or any Extended Term comprising:

- the total of the Charges which would have been payable to the end of the Initial Term or Extended Term as appropriate); plus
- the Committed Spend or (where no Committed Spend is set out in the Order the Average Monthly Call Charges) multiplied by the number of months to the end of the Initial Term or Extended Term as appropriate; plus
- £50 for the cancellation of your Broadband Service (where applicable); plus
- £10 per 01 or 08 number ported away from our Network (where applicable).

"Charges" the charges payable by you to us pursuant to clause 10 for the provision of the Services as set out in the Order.

"Committed Spend" the amount set out in the Order which you commit to pay in respect of call charges during each month of the Initial Term and any Extended Term.

"Contract" these terms and conditions, the Order and any other document referenced in them as forming part of this Contract.

"Equipment" our equipment as specified in the Order which we may loan to you for use in respect of the Services.

"Extended Term" in respect of the Contract any renewal period of 12 calendar months in accordance with clause 3.

"Facility Limit" the monthly financial limit applied to the Charges of 125% of the value of the estimated call spend (set out on the Order):

"Hardware" your equipment, network, systems and software which you use in connection with the Services.

"Helpdesk" our first line point of support, details of which are attached to the Order or are otherwise set out on our Website.

"Initial Term" the period of 12 months commencing on the Start Date and ending on the anniversary thereof.

"Order" your order for Services which has been accepted and signed by us and which sets out the scope of the Service, the relevant Charges and any special terms which are particular to those Services.

"Network" our telecommunications network and equipment which we use to provide the Services.

"Premises" your premises at which the Equipment will be installed.

"Service Failure" means any failure, error or defect in the provision of the Services by us but excluding:

- any failure, error or defect arising from, caused by or contributed to by your acts or omissions or those of third parties (including other providers of telecommunications, computers or other equipment or services including internet services), or
- any failure, error or defect arising as a result of causes beyond our reasonable control.

"Service" means any one of the services described in an Order and **"Services"** means any combination of two or more such services.

"Service Hours" means our normal working hours of 9.00am to 5.00pm, Monday to Friday excluding UK public holidays.

"Software" means the software provided by us to you for the purposes of enabling you to use the Services including all associated documentation.

"Start Date" the date of go live of the Services.

"we" or **"us"** VSL of Unit 6, Martinfield, Welwyn Garden City, Herts AL7 1HG. VSL refers to VSL Networks Ltd and/or Voice Services Ltd.

"you" the customer specified in the Order.

"Website" our website at www.vslgroup.co.uk

2 APPLICATION OF TERMS

2.1 These terms and conditions together with the Order and any other document referred to in them form the contract between us ("**Contract**") for the provision of the Services.

2.2 These terms and conditions apply to the Contract to the exclusion of any other terms that you may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

2.3 **Your attention is drawn in particular to clause 12 Limitation of Liability and you acknowledge that you understand and agree to the provisions of clause 12.**

3 DURATION OF CONTRACT AND AUTOMATIC RENEWAL

3.1 This Contract is binding from the date of signature on the Order unless terminated earlier in accordance with clause 15 and acts as an instruction to proceed. The duration of the term will begin when the product or service is activated 'Start date'. This is irrespective of whether related products or services have been activated. Therefore, the contract term start dates may vary by product or service. The term of the Contract shall automatically extend for an Extended Term at the end of the Initial Term and at the end of each Extended Term, unless you give written notice to us not later than 90 days before the end of the Initial Term or the relevant Extended Term, to terminate this Contract at the end of the Initial Term or the relevant Extended Term, as the case may be. You acknowledge that 90 days notice to terminate the Contract at the end of the Initial Term or any Renewal Term is a reasonable period in order for us to mitigate any costs, expenses, losses or damages which we may incur as a result of the termination of our contracts with third party suppliers involved in the provision of the Services to you.

3.2 You may at any time add additional Services to the Contract or request a tariff review, and such additional Services or revised tariff agreed with us will be set out in a new Order. The new Order shall form a new Contract with us subject to these terms and conditions, which shall supersede the previous Contract. The new Contract shall begin on the Start Date for the new Services and shall continue in respect of all existing and new Services in accordance with clause 3.1.

4 SERVICES

4.1 We will commence the Services within a reasonable time after the Start Date and will provide the Services in accordance with the terms of this Contract. Any dates which we give to you are estimates only and time shall not be of the essence with respect to such dates.



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- 4.2 You will be billed from the point the product or service is activated/ made live. Related products or services yet to be activated/ made live will not delay the billing of the live products or services.
 - 4.3 Services are provided during Service Hours. If you request us to carry out any part of the Services outside of the Service Hours, we may agree to do so at our sole discretion and reserve the right to charge for such work in accordance with our standard time and materials rates in force at the time.
 - 4.4 Where set out in the Order that we shall provide you with Equipment as part of the Services, we shall deliver such Equipment to your Premises as soon as reasonably practicable after the Start Date. Unless we agree otherwise, you will be responsible for installation of any Equipment.
 - 4.5 We warrant that the Services will be performed in accordance with all applicable laws and regulations and with reasonable skill and care. All other conditions, warranties or other terms which might be implied or incorporated into this Contract, whether by statute, common law or otherwise, are hereby excluded to the fullest extent permitted by law.
 - 4.6 Notwithstanding the foregoing, we:
 - 4.6.1 do not warrant that your use of the Services will be uninterrupted or error-free; nor that the Services will meet your requirements; and
 - 4.6.2 are not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities (other than as provided by us as part of the Services), such as the internet, and you acknowledge that the Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.
 - 4.7 If you experience any Service Failure, you shall notify us via our Helpdesk, and we shall use all reasonable endeavours to restore the Services to you as soon as reasonably practicable.
 - 4.8 We shall not be liable for any failure or defect in the Services caused by any fault or defect in your telecommunications equipment.
 - 4.9 We reserve the right to change/improve, correct or otherwise modify products/services and may at any time with reasonable written notice to you, transfer you onto a new or comparable product/service.
 - 4.10 On the day that we transfer services, you may experience a temporary loss of service. Afterwards you may also need to reset your access numbers, settings, and/or passwords and may no longer be able to access identical services or functionally.
 - 4.11 We may from time to time and without notice to you change the Services in order to comply with any applicable safety or statutory requirements, provided that such changes do not materially affect the nature, scope of, or the charges for the Services. Where practicable, we will give you at least 30 days' notice of any change.
- ## 5 ALLOCATION AND USE OF TELEPHONE NUMBERS
- 5.1 Where we allocate any telephone numbers or codes to you as part of the Service, you acknowledge that you do not acquire any legal, equitable or other rights in relation to numbers or codes.
 - 5.2 We may, upon written notice to you, withdraw or change any numbers or codes where we are required to do so. You acknowledge that any such withdrawal or change of any numbers or codes is outside of our reasonable control and that we will not be liable to you for any loss or damage which you may suffer or for any costs or expenses which you may incur for any interruption to your business as a result of the same.
 - 5.3 You may not sell or transfer or seek to sell or transfer any numbers or codes allocated by us. You may port numbers to us and may also port numbers to other carriers with whom we have porting agreements.
- ## 6 YOUR USE OF THE SERVICES
- 6.1 The Services are provided only for use in the course of your business. You must use the Services only in accordance with our Acceptable Use Policy.
 - 6.2 You agree that you will not use the Services in a way which would:
 - 6.2.1 breach or cause us to breach any applicable laws or regulations; or
 - 6.2.2 compromise the security of our Network or Equipment or the Services by accessing, storing, distributing or transmitting any viruses, Trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other harmful programs or similar computer code designed to adversely affect the operation of any computer software or hardware; or
 - 6.2.3 enable or permit unauthorized access by you or any third party to data stored on our network; or
 - 6.2.4 do any thing which would cause a degradation of service to any of our other customers.
 - 6.3 During your use of the Services you shall not access, store, distribute or transmit any data or materials that are:
 - 6.3.1 misleading, or misrepresentative of your identity or affiliation with any person; or
 - 6.3.2 obscene, indecent, pornographic, offensive, defamatory, facilitates illegal activity; or promotes unlawful violence; or
 - 6.3.3 discriminatory (based on race, sex, religion, nationality, disability, sexual orientation or age); or
 - 6.3.4 in breach of any legal duty owed to a third party, such as a contractual duty or a duty of confidence or promoting any illegal activity;and we reserve the right, without liability to you, to disable your access to any data or materials that breach the provisions of this clause.
 - 6.4 You shall not:
 - 6.4.1 transmit or cause to be transmitted unsolicited marketing or advertising materials contrary to applicable laws; or
 - 6.4.2 access all or any part of the Services in order to build a product or service which competes with the Services; or
 - 6.4.3 use the Services to provide services to third parties; or attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 6; or
 - 6.4.4 sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially



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- exploit, or otherwise make the Services available to any third party; or
 - 6.4.5 breach or cause us to breach any applicable data protection legislation including, but not limited to, the Data Protection Act 1998; or
 - 6.4.6 lose or cause us to lose or breach or cause us to breach our Authorisation; or
 - 6.4.7 exceed our fair usage policy on applicable services (intermit) as published on our Website.
- 6.5 You will indemnify us against any claims, proceedings or threatened proceedings from third parties and against any loss or damage suffered by us arising from any breach of your obligations under this Contract including this Clause 6, and for all costs and expenses reasonably incurred by us in investigating and defending ourselves in relation to any such claims, proceedings or threatened proceedings.
- 6.6 You will ensure that your usage of the Services does not exceed the Facility Limit or cause congestion or otherwise disrupt our Network. You will give us not less than 2 working days written notice of any advertising, promotion or other campaigns which may result in abnormal demands being placed on our network.
- ### 7 YOUR OBLIGATIONS
- 7.1 In order for us to provide the Services you shall provide us with all necessary co-operation in relation to this Contract and access to such information as we may require, including but not limited to your Hardware, data, security access information and configuration services.
- 7.2 Subject to clause 4.4 you are solely responsible (at your cost), for procuring and maintaining all necessary Hardware, software, network facilities and telecommunications services which are required to access and make use of the Services.
- 7.3 During the term of this Contract you shall:
- 7.3.1 ensure that your Hardware:
 - a) meets the minimum technical specifications as notified by us for compatibility with the Services; and
 - b) is supplied and maintained in a safe condition, in good working order and that it complies with all applicable legislation or regulations;
 - 7.3.2 obtain all required licenses or other consents to enable us to have access to and use of your Hardware for the purpose of providing the Services including, but not limited to, any license rights in respect of any software which forms part of your Hardware;
 - 7.3.3 comply with all applicable laws and regulations with respect to your activities under this Contract; and
 - 7.3.4 carry out all other responsibilities set out in this Contract in a timely and efficient manner. In the event of any delays in your provision of such assistance as agreed by the parties, we may adjust any agreed timetable or delivery schedule as reasonably necessary.
- 7.4 We shall not be responsible for any delay or inability to provide the Services where this is caused by your breach of any of the obligations in this clause 7.
- 7.5 We may disconnect any of your Hardware from our network if in our reasonable opinion it does not so conform with clause 7.3 or if in our reasonable opinion it is liable to cause personal injury or damage to property or to impair the quality of the Services provided by us or to cause us to lose our Authorisation or to put us in breach of our obligations to any third party.
- ### 8 SECURITY AND DATA BACKUP
- 8.1 You are responsible for the security of your data and your use of the Services. You shall take all reasonable steps to prevent any loss of or damage to data, or any unauthorised access to, or use of, the Services including but not limited to:
- 8.1.1 ensuring all passwords are in an appropriately secure format and properly protected against loss or unauthorised access;
 - 8.1.2 taking regular back-ups of all of your data used with or stored as part of the Services,
 - 8.1.3 employing appropriate security devices including virus checking software; and
 - 8.1.4 having appropriate disaster recovery processes in place.
- 8.2 Where you are or become aware of any matters which you know or ought reasonably to be expected to know constitute a threat to the security of the Services, you will promptly notify us of such matters.
- ### 9 EQUIPMENT
- 9.1 From time to time, we may agree to provided you with a short-term loan of Equipment for use with the Services. Where you are provided with such Equipment you shall at all times:
- 9.1.1 use the Equipment only in connection with the Services, and for no other purpose;
 - 9.1.2 use reasonable endeavours to keep the Equipment free from any loss or damage;
 - 9.1.3 notify us promptly of any malfunction, defect, loss or damage to the Equipment, and return the Equipment to us promptly for repair or replacement at our sole discretion;
 - 9.1.4 not sell or loan the Equipment to any person or create any charge lien or other encumbrance over the Equipment; and
 - 9.1.5 insure the Equipment against loss or damage caused by any accident or your negligence or that of your employees, agents or subcontractors with a reputable insurance firm to the full replacement value of the Equipment.
- 9.2 Equipment shall be returned to us promptly following our request for you to do so, and in any event at the end of the loan period or upon expiry or termination of this Agreement.
- 9.3 The Equipment is owned by us, or our suppliers or licensors, and no title in any Equipment will pass to you under this Contract.
- 9.4 You shall allow us and our employees or subcontractors access to your Premises at any time (during normal business hours) on reasonable notice, to install (subject to clause 4.4), inspect, test, maintain or otherwise deal with the Equipment.
- 9.5 You shall indemnify us against any claims, proceedings or threatened proceedings from third parties (including our customers) and against any loss or damage



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suffered by us arising from your use of the Equipment where such claims and/or losses arise from the acts or omissions of you or your agents or subcontractors, and for all costs and expenses reasonably incurred by us in investigating and defending ourselves in relation to any such claims, proceedings or threatened proceedings.

10 CHARGES AND PAYMENT

- 10.1 In consideration for the Services, you shall pay the Charges with effect from the Start Date in accordance with the payment terms set out in the Order.
- 10.2 All amounts payable under this Contract are exclusive of value added tax (if any) which shall be paid at the rate and in the manner for the time being prescribed by law.
- 10.3 We shall issue invoices in accordance with the payment terms set out in the Order and you shall pay our invoices within 14 days of the date of the invoice.
- 10.4 You must notify us of any query or dispute in respect of any invoice, or any part of an invoice within thirty (30) days of the date of the invoice and we shall negotiate in good faith as soon as reasonably practicable to resolve the dispute. If you do fail to notify us of any dispute within the thirty (30) day period, the full amount of the invoice shall be payable. Payment for all sums not in dispute shall be made on the due date.
- 10.5 If you fail to pay any amount payable under this Contract, we reserve the right to suspend the Services until all outstanding payments are received in full; and claim interest under the Late Payment of Commercial Debts (Interest) Act 1998.
- 10.6 Subject to clause 10.7, we shall be entitled to increase the Charges, with effect from the end of the Initial Term and any Extended Term. Any such increase shall be notified to you at least 30 days prior to the date on which the increase will take effect.
- 10.7 Notwithstanding clause 10.6, we reserve the right to increase the Charges during the Initial Term or any Renewal Term as a result of any increase in our costs which are imposed on us by any third party in connection with the provision of the Services to you. Any such increase will be subject to 30 days written notice to you.
- 10.8 Where the Services comprises or includes services in respect of which rebates are payable by us to you ("Rebate Services"), we will notify you of the rebate due for each calendar month or other applicable period within 15 days of the end of each billing period. It is then your responsibility to issue an invoice to us for payment of the rebate due. We will pay the rebate by the later of (i) 45 days following the date of your invoice, and (ii) 14 days of the date of receipt by us of sums from British Telecommunications plc (or other relevant carrier) paid to us in respect of the applicable Service. You shall not attempt to set off any rebates against payment of Charges.
- 10.9 Following a decision or request from Phone Pay Plus relating to a Rebate Service, we may withhold from any rebate payable to you or demand payment by you of such sums as are sufficient to meet any fines, administrative charges or other sums payable by us to Phone Pay Plus and which Phone Pay Plus claim entitlement under the Phone Pay Plus Code.
- 10.10 Where a network operator (including, without limitation, BT) withholds payment of any sum (in whole or in part) due to us in relation to a Rebate Service or subsequently claims repayment of any sum (in whole

or in part) paid to us in relation to Rebate Service, we may deduct from any rebate payable to you and keep or demand payment by you of a sum equal to the amount delayed, withheld or claimed until such network operator makes payment of the same in full to us.

11 INTELLECTUAL PROPERTY

- 11.1 You acknowledge and agree that we and/or our suppliers own all intellectual property rights in the Services and any Software provided in connection therewith. Except as expressly stated in this Contract, you are not granted any rights to, or in, patents, copyrights, database rights, trade secrets, trade marks (whether registered or unregistered), or any other rights or licences in respect of the Software or the Services.
- 11.2 You shall not, except as may be permitted by law or otherwise in accordance with this Contract:
 - 11.2.1 copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Software in any form or media or by any means; or
 - 11.2.2 reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Software.
- 11.3 In the event of any judgment by a competent UK court of law that the Services or any Software infringe the intellectual property rights of a third party, we may (at our option) procure the right for you to continue using the Services or such Software, replace or modify the Services or Software so that they become non-infringing or, if such remedies are not reasonably available, terminate this Contract without any additional liability or obligation to pay damages or other additional costs to you.
- 11.4 This clause 11 sets out your sole and exclusive remedies, and our entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

12 LIMITATION OF LIABILITY

- 12.1 Nothing in this clause 12 shall limit or exclude our liability to you for death or personal injury, or fraud or fraudulent misrepresentation, or breach of any warranty implied by clause 2 of the Supply of Goods and Services Act 1982 or for any other loss or damage which cannot be excluded by law.
- 12.2 Subject to clause 12.1, we shall have no liability to you for:
 - 12.2.1 any loss of profits or anticipated profits; loss of anticipated savings; loss of business opportunity or loss of goodwill or wasted management time which you may suffer, whether they arise directly or indirectly or are immediate or consequential and whether they arise in contract, tort (including negligence) or otherwise; or
 - 12.2.2 any indirect or consequential loss or special damage (even though we were aware of the circumstances in which such special damage could arise); or
 - 12.2.3 any loss of or damage to your data, howsoever caused.
- 12.3 Subject to clauses 12.1 and 12.2, our total liability to you, whether in contract, tort (including negligence) or otherwise in connection with this Contract, shall not



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exceed a sum equal to the total value of the Charges and call charges paid or payable by you in respect of the Services during the 12 months prior to which the liability arose.

12.4 We shall not be liable to you in respect of any claim against us which may reasonably be considered likely to give rise to a liability in respect of the Services or otherwise in connection with this Contract unless:

12.4.1 you comply fully with the procedure set out in clause 18; and

12.4.2 in the event the claim cannot be settled in accordance with clause 18, you commence any court proceedings on or before the date which is 60 days after the date on which you became aware or ought reasonably to have known about the circumstances giving rise to the claim.

12.5 For the avoidance of doubt, the Customer acknowledges that they have sole responsibility for all charges relating to the use of services regardless of whether such service is authorised, unauthorised, fraudulent or otherwise. The customer must inform VSL as soon as reasonably practical if it suspects that fraudulent or unauthorised use of the service is occurring, although such notification will not limit the customers' liability to pay the charges as set out herein.

12.6 It is the Customers responsibility to monitor usage including that made on a mobile sim or an internet circuits VSL will notify customers within 48 hours of a customer reaching the threshold of their inclusive product allowance if it has one; however, VSL will not automatically cease its use unless notified by the customer. The threshold notifications are based on historical data and therefore cannot be used to accurately confirm current usage. Therefore, the customer is liable for all usage, including that which exceeds the product inclusive allowance. Notifications will be via email to an address listed on the order form. If no email address is provided on the original order form, then the customer must will not receive notifications. The customer will still be liable for the full cost of any usage.

13 CANCELLATION

13.1 You may cancel this Contract or any individual Service at any time upon 90 days written notice to us. You acknowledge that 90 days notice to cancel any Service is a reasonable period in order for us to mitigate any costs, expenses, losses or damages which we may incur as a result of the cancellation of our contracts with third party suppliers involved in the provision of that Service to you.

13.2 Where we receive your notice of cancellation pursuant to clause 13.1 before the end of the Initial Term or Extended Term (as applicable), you shall pay to us the Cancellation Charge in respect of the Service or Services to which your notice refers. You hereby acknowledge that the Cancellation Charge represents a reasonable pre-estimate of our administration costs, expenses, lost revenue and any other loss which we may suffer as a result of your cancellation of the Services during such period.

14 SUSPENSION OF SERVICES

14.1 We may suspend the Services at any time upon reasonable notice to you (where practicable):

14.1.1 where we are obliged to comply with any order instruction or request of a competent court, government or regulatory authority; or

14.1.2 where provision of the Services is rendered impossible, or functionality or performance of the Services becomes materially limited, as a result of technical limitations or other matters which are outside our reasonable control,

in which case we shall use our reasonable endeavours to restore the Service as soon as reasonably practicable.

14.2 We may suspend the Services at any time in order to carry out:

14.2.1 planned maintenance, which we may carry out to ensure the continuing quality of the Services where:

a) we have given you at least 48 hours notice of our intention to undertake such maintenance, or

b) where the maintenance work is required in connection with the requirement of a third party, such period of notice as may be reasonable taking into account the notice which we may have received from that third party.

14.2.2 emergency maintenance which we may require to be undertaken to prevent the failure or serious degradation of the Services. Where we are unable to give you at least 12 hours notice of our intention to undertake emergency maintenance we will endeavour to undertake emergency maintenance outside our normal business hours.

14.3 Notwithstanding clause 14.1 and clause 14.2, we may suspend the Services at any time immediately upon notice to you if you fail to pay any Charges when due in accordance with clause 10 or if in our reasonable opinion you fail to meet any of your obligations under clause 6, in which case the Services will remain suspended until such time as you demonstrate to our reasonable satisfaction that you have remedied your breach. Nothing in this clause 14.3 shall prevent us from taking action to terminate the Contract in accordance with clause 15.

14.4 In the event that the Services are suspended pursuant to clause 14.3, we reserve the right to charge you a reconnection fee which you must pay in full prior to the Services being resumed.

14.5 You will remain responsible for making all payments under this Contract by the due date during any period of suspension pursuant to Clause 14.2 or 14.3.

15 TERMINATION

15.1 We may terminate this Contract immediately on notice to you, and without liability to you:

15.1.1 if you fail to pay any amount due under this Contract on the due date for payment and remain in default not less than 7 days after being notified by us in writing to make such payment;

15.1.2 if you breach any of the terms of this Contract and the breach (where the breach is capable of being remedied) has not been remedied within 30 days of our written request to remedy it;



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- 15.1.3 if you convene a meeting of your creditors or if a proposal is made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) your creditors or if you are unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any part of your business or assets or if a petition is presented or a meeting is convened for the purposes of considering a resolution or other steps are taken for your winding up or for making of an administration order; or
- 15.1.4 if the value of your calls falls below the Committed Spend for a period of 90 consecutive days.
- 15.2 We may terminate this Contract if we cease to be Authorised or if our Authorisation is revoked or modified in any way which has a material impact on our ability to provide any part of the Services or if we are prohibited or restricted from providing any part of the Services.
- 15.3 On termination of this Contract for any reason:
- 15.3.1 you shall immediately pay to us all of our outstanding unpaid invoices and interest;
- 15.3.2 you shall return the Equipment to us and if you fail to do so, we may enter your Premises and take possession of it, and until it has been returned or repossessed, you remain responsible for its safe keeping;
- 15.3.3 we shall return your data to you in an appropriate format; and
- 15.3.4 our respective accrued rights and liabilities as at termination and the continuation of any provision expressly stated to survive or implicitly surviving termination, shall not be affected.
- 15.4 In addition to the provisions of clause 15.3, if we terminate this Contract in accordance with clause 15.1 during the Initial Term or any Extended Term, you shall pay to us the applicable Cancellation Charge.
- 16 CONFIDENTIALITY**
- 16.1 Each party shall protect the Confidential Information of the other party against unauthorised disclosure by using the same degree of care as it takes to preserve and safeguard its own confidential information of a similar nature, being at least a reasonable degree of care.
- 16.2 Confidential Information of the disclosing party may be disclosed by the receiving party to its employees, affiliates and professional advisers, provided that the receiving party procures that any such recipient complies with the provisions of this clause 16.
- 16.3 The obligations set out in this clause 16 shall not apply to Confidential Information which the receiving party can demonstrate:
- 16.3.1 is or has become publicly known other than through breach of this clause 16; or
- 16.3.2 was in possession of the receiving party prior to disclosure by the other party; or
- 16.3.3 was received by the receiving party from an independent third party who has a full right of disclosure; or
- 16.3.4 was independently developed by the receiving party; or
- 16.3.5 is required to be disclosed by a governmental authority, stock exchange or regulatory body, provided that the party subject to such requirement to disclose gives the other party prompt written notice of the requirement to the extent lawfully possible.
- 16.4 This clause 16 shall survive termination or expiry of this Agreement, however arising and shall continue thereafter for a period of 3 years or such other period as may be agreed by the Parties.
- 17 USE OF YOUR INFORMATION**
- 17.1 We may use any information which you supply to us to carry out a search of the files of credit reference agencies. A record of that search will be kept. We may also carry out identity and anti-fraud checks with fraud prevention agencies. If you give false or inaccurate information to us and we suspect fraud, we will record this. Details of how you conduct your account may also be disclosed to those agencies. The information may be used by us and other parties in assessing applications for and making decisions about credit, credit related services and insurance from you and for debt tracing, debt recovery, credit management and prevention. Information may be used by us and other parties for checking your identity, statistical analysis about credit, insurance, fraud and to manage account and insurance policies. We may also perform subsequent searches for the purpose of risk assessment, debt collection and fraud prevention with one or more credit reference agencies and/or fraud prevention agencies whilst you retain a financial obligation to us.
- 17.2 You authorise us to use and disclose, in the UK and abroad, information about you and your use of the Services and how you conduct your account for the purposes of operating the account and providing you with the Services or as required by law to any company within our group of companies from time to time, our suppliers, partners or agents, any telecommunications company, and any person referenced in 17.1 above.
- 17.3 You can obtain further details about our data processing from the public registration held by the Information Commissioner. If you wish to have details of the credit reference or the fraud prevention agencies from whom we obtain information about you or receive a copy of information we hold about you, please write to our Data Protection Officer at the address set out above. We reserve the right to charge the statutory fee for the provision of such information to you.
- 17.4 We may also disclose any information about you or your use of the Services in order to assist the investigation of any criminal offence, any offence under the Data Protection Act or any offence or contravention of any legislation to the police, the Information Commissioner, OFCOM and/or any other relevant organisations.
- 17.5 We may from time to time use information which we hold about you and/or disclose such information to selected third parties for marketing purposes. However, you may at any time write to us to request that we stop using or disclosing your information for these purposes. Where you are contracting with us as an individual rather than in connection with your business or employment, we will not use or disclose your



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information to third parties for marketing purposes unless agree that we may do so.

- 17.6 You acknowledge that we have no obligation to monitor, review or edit any of your information or third-party information which you store on or transmit through our Equipment or use in connection with the Services. However, we reserve the right to intercept, access, retain and disclose copies of such information for the purposes of:
- 17.6.1 retaining a record of activity on our Equipment or systems and otherwise establishing the existence of facts in connection with the Services; or
 - 17.6.2 observing the performance of the Services and correcting, maintaining improving and effective operation of the Services; or
 - 17.6.3 complying or ascertaining compliance with regulatory or self regulatory practices applicable to us or the Services (including without limitation our Authorisation); or
 - 17.6.4 in the interests of national security or for preventing or detecting crime; or
 - 17.6.5 for investigating or detecting any unauthorised use of our Equipment or the Services; or
 - 17.6.6 complying with any request for information or disclosure from a court or other appropriately authorised body.

18 FORCE MAJEURE

We shall have no liability to you under the Contract if we are prevented from, or delayed in performing, our obligations under the Contract or from carrying on our business by acts, events, omissions or accidents beyond our reasonable control.

19 GENERAL

- 19.1 We may vary these terms and conditions of business from time to time upon notice to you.
- 19.2 A waiver of any right under the Contract is only effective if it is in writing and shall not be construed as a waiver of any other provision of this Contract.
- 19.3 If any provision of the Contract (or part of any provision) is found by the court to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of the Contract, and the validity and enforceability of the other provisions of the Contract shall not be affected.
- 19.4 The Contract constitutes the whole agreement between us and supersedes all previous agreements between us relating to its subject matter. We each acknowledge, in entering into the Contract, we have not relied on, and shall have no right or remedy in respect of, any statement, representation, assurance or warranty (whether made negligently or innocently) other than as expressly provided in this Contract provided that nothing in this clause shall limit or exclude any liability for fraud.
- 19.5 You shall not, without our prior written consent, assign, transfer, subcontract or deal in any manner with any of your rights or obligations under this Contract.
- 19.6 In the event and to the extent of any conflict between these General Terms and the Order then these General Terms will take precedence.
- 19.7 We may at any time subcontract or delegate in any manner any or all of our obligations under the Contract to any third party or agent.

19.8 A person who is not a party to the Contract shall not have any rights under or in connection with it.

19.9 Any notice required to be given under the Contract shall be in writing and shall be delivered personally or sent by recorded delivery or by commercial courier to the other party to the address set out in the Order or as otherwise specified by the relevant party by notice in writing to the other party. Any notice shall be deemed to have been duly received if delivered personally, when left at the address set out in the Order or, if sent by recorded delivery, at 9.00 am on the second Business Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed.

19.10 This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with, English law and shall be subject to the exclusive jurisdiction of the English courts.