



Terms of Business

CONTRACT FOR THE SUPPLY OF EQUIPMENT AND/OR SERVICES

1. This Contract is made up of the following:
 - (a) The accepted Order Form.
 - (b) The Supplementary Terms and Conditions set out in the Schedule that apply to the supplies ordered in the Order Form.
 - (c) The Standard Terms and Conditions.
 - (d) The Privacy Policy

2. If there is any conflict or ambiguity between the terms of the documents listed in paragraph 1, a term contained in a document higher in the list shall have priority over one contained in a document lower in the list.

This Contract has been entered into on [insert date] (the Contract Date).

Signed by [NAME OF DIRECTOR]

Director

for and on behalf of [NAME OF CUSTOMER]

Signed by [NAME OF DIRECTOR]

for and on behalf of
Memorli Limited

Director



STANDARD TERMS & CONDITIONS SUPPLY

These are the Standard Terms and Conditions on which we supply goods and services to you which, together with the content of the Order Form and those of the Supplementary Terms which apply to the goods and services set out in the Order Form, comprise the terms of the contract between us. Please read these terms carefully when you submit your Order Form to us as they will be binding on you.

BETWEEN

- (1) **Memorli Limited** incorporated and registered in England and Wales with company number 10545724 whose registered office is at 65 Cromer Road EN55HT, London, UK, which address should be used for all formal notifications. Our additional contact details are set out below.

AND

- (2) The customer named and identified in the Order Form (**Customer**) who shall be contacted using the information provided in the Order Form. If these changes, the Customer must notify the Supplier as soon as practicable.

1. Interpretation

1.1. Definitions:

3G: means 3rd generation mobile data network.

Activation: means making the relevant Service available for use and 'Activated' shall be construed accordingly.

Activation Charges: mean those amounts payable by Customer to the Supplier for the connection and Activation of a Service as set out in the relevant Order Form.

Bandwidth: means the rate, in bits (not bytes) per second, at which data packets can be transferred over the Service.

BT: means such part or division of BT Group PLC including BT Retail, BT Wholesale or BT Openreach as the context may require.

Business Day: means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

Charges: means the charges payable by the Customer for the supply of the Services by the Supplier, as set out in the Order Form and as varied from time to time by agreement in accordance with these Terms and Conditions.

Cloud Services: means a service or application (which may be provided by a third party appointed by the Supplier) that is outside of a Customer's on-premises infrastructure. For the avoidance of doubt, the service or application is typically accessed via the Internet.

Contract: means the contract between the Customer and the Supplier for the supply of Equipment and/or Services in accordance with the Order Form, these Standard Terms and Conditions and any applicable Supplementary Terms and Conditions as set out in the Schedule.

Commencement Date: means the date of Activation of the Services or the date on which the Supplier completes installation of the equipment set out in the Order Form.

Contract Date: means the date on which the Supplier accepts the Customer's Order, as set out in the Order Form and the Customer first becomes bound by its obligations to the Supplier.



Control: shall be as defined in section 1124 of the Corporation Tax Act 2010, and the expression **change of Control** shall be construed accordingly.

Customer Materials: means all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier.

Customer's Premises: means the installation address or addresses, if more than one is agreed by the Supplier, as set out in the Order Form.

Data Protection Legislation: means (i) 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 thereafter (ii) any successor legislation to the GDPR or the Data Protection Act 1998.

Force Majeure Event: has the meaning given to it in Clause 14.1.

Equipment: means all and any goods and equipment, including but not limited to all hardware, software, consumables, modems, modem configurations, lines and cabling provided and/or installed by the Supplier in connection with supply of the Services as set out in the Order Form which for the avoidance of doubt always remain the property of the Supplier until paid for in full.

Intellectual Property Rights: means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

Local Conditions: means the conditions pertaining at a site including copper quality and distance from the exchange.

Minimum Term: means the minimum term of this Contract, as set out in the Order Form, (which shall for the avoidance of doubt commence on the Commencement Date), unless the Supplier has brought the Contract to an earlier end in accordance with its rights as set out herein.

Network: means the telecommunications network owned and/or operated by the Supplier and includes any third-party networks used by the Supplier to provide the Services.

NTE: means Network Terminating Equipment, commonly a BT wall socket or master socket, but can also be a router or switch.

Opening Hours: means 08.30 to 17.30 on any Business Day.

Order: means the order for Equipment and/or Services comprised within the Order Form.

Order Form: means the Order Form/s submitted by the Customer and accepted by the Supplier.

PSTN: stands for public switched telephone network (normally an analogue BT telephone line).

Recurring Charges: means those amounts including service fees payable by Customer to the Supplier on a recurring basis for provision of the Services as set out in the relevant Order and excludes installation, set-up or other one-off charges.

Renewal Term: means a period of equivalent length to the Minimum Term set out in the Order Form commencing on the day first following the end of the Minimum Term or the previous Renewal Term, as the case may be.



Services: the services, including without limitation any Supplier Materials, to be provided by the Supplier pursuant to this Contract, as set out in the Order Form.

Small Business Customers: means a customer of the Supplier who is neither itself a communications provider, nor a person who is such a customer in respect of an undertaking carried on by it for which more than ten individuals work (whether as employees or volunteers or otherwise).

Supplier IPRs: means all Intellectual Property Rights either subsisting in the Supplier Materials (excluding any Customer Materials incorporated in them) or otherwise arising out of or in connection with the Services.

Supplier Materials: means all documentation, materials, hardware, software, modems, modem configurations, equipment and tools, drawings, specifications and data supplied by the Supplier to the Customer in connection with supply of the Equipment and/or Services which always remain the property of the Supplier.

Terms and Conditions: means these standard terms and conditions set out in Clause 1 to Clause 14 (inclusive).

1.2 Interpretation:

- (a) A reference to a statute or statutory provision is a reference to it as amended or re-enacted.
- (b) A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
- (c) Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (d) A reference to **writing** or **written** includes fax and e-mail.
- (e) A reference to a party includes its personal representatives, successors or permitted assigns.
- (f) A 'person' includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

2. Commencement, term and Basis of Contract

- 2.1 By signing the Order Form the Customer warrants that it is:
- (a) using the Equipment and/or Services for business purposes;
 - (b) not a consumer; and
 - (c) legally able and duly authorized to enter into this Contract.
- 2.2 The Order Form constitutes an offer by the Customer to purchase the Equipment and/or Services in accordance with these Terms and Conditions.
- 2.3 Each Order Form is subject to acceptance by the Supplier in its absolute discretion and, without limiting the foregoing, acceptance shall be subject to any or all of the following:
- (a) Site survey of the Customer's Premises being carried out and acceptable to the Supplier in its absolute discretion;
 - (b) payment by Customer in cleared funds of the deposit (if applicable, see Clause 2.4) set out in the Order Form;
 - (c) the provision by Customer of financial and credit information satisfactory to the Supplier; and
 - (d) notification to the Supplier of receipt of all required third party authorizations, licenses, consents or approvals, including for finance, and any applicable planning, landlord, access or wayleave consents.
- 2.4 The Supplier may, at any time, require the Customer to pay a deposit and/or to procure that a parent company or related company guarantees the payment of any Charges due under this Contract, including on account of any expenses reasonably to be incurred in supply of the Services in accordance with Clause 11.10. The Customer agrees to enter into and / or procure the execution of any agreement or deed reasonably required for any such purpose. Customer deposits shall not attract interest.
- 2.5 Should the site survey of the Customer's Premises prove, in the Supplier's absolute discretion, to be unacceptable, the Supplier reserves the right either to:
- (a) withdraw its acceptance of the Order Form and refund any deposit paid; or
 - (b) to amend the Services and Charges set out on the Order Form in accordance with Clause 2.6.
- 2.6 Amendment to the Order Form shall be agreed between the parties in writing ('**Amendment**') either:
- (a) as reasonably requested by the Customer; or
 - (b) when rendered necessary, in the Supplier's absolute discretion:
 - (i) after the site visit of the Customer's Premises or as becomes apparent during surveys that reveal certain equipment or service provision to be unavailable at the Customer's Premises or to require amendment; or
 - (ii) to acquire or maintain all required third-party authorizations, licenses, consents or approvals, including for finance, and any applicable planning, landlord, access or wayleave consents necessary for all or any part of the supply of Equipment and/or Services; or
 - (iii) to comply with a third-party supplier's change control process or change request approval.

- 2.7 In case of any such Amendment, the Supplier shall be entitled to reasonably revise its Charges for the Services, taking into account the cost of additional time and materials.
- 2.8 Once a date has been set for Activation of the Services or installation of any Equipment necessary for Activation of the Services, the Supplier will issue an email to the Customer's representative stated on the Order Form 2.

3. Cancellations

- 3.1 The Customer has the right to cancel the Contract at any time during the 7 days first following the Contract Date provided always that it shall be liable to pay a cancellation fee, which is currently £500, and shall also reimburse the Supplier's costs incurred on pre-contract site visits or procurement of supplies from subcontractors or third-party suppliers and all other set up and administration costs.
- 3.2 Written notice of the Customer's cancellation must be made by email to: sales@memorli.co. Notification via telephone or by email to any other address shall not be accepted.
- 3.3 The Supplier will acknowledge Customer's cancellation notice, or any cancellation deemed to arise in accordance with Clause 3.4, within five (5) Business Days and notify Customer of the cancellation charge and any other final charges outstanding on the Customer's account. If Customer does not receive acknowledgement within five (5) Business Days, Customer must contact the Supplier to confirm that the cancellation request has been received. Customer's cancellation shall not be effective until acknowledged by the Supplier.
- 3.4 If the Supplier is unable to activate a Service due to the act or omission of Customer (including but not limited to the provision of incorrect information) the Supplier may treat the Contract as cancelled and levy the charges provided for in Clause 3.1.
- 3.5 The Customer's right of cancellation lapses after the end of 7 days first following the Contract Date at which point and on which date the Contract cannot be cancelled but continues for the Minimum Term set out in the Order Form and thereafter for repeating Renewal Terms unless and until terminated in accordance with these Terms and Conditions, provided always that in respect of Small Business Customers, Renewal Terms shall only apply where the Customer has given express consent in writing in accordance with Ofcom General Condition 9.3.

4. Site Visits and Installation

- 4.1 Where an appointment is made for the Supplier or its subcontractor to visit the Customer's Premises, including for the purposes of a site survey or for installation or Activation, and the visit cannot be successfully completed either:
 - (a) through no fault of the Supplier or its subcontractor; or
 - (b) the Supplier or subcontractor being unable to gain access to the Customer's Premises or any part thereof which is necessary for the work; or
 - (c) any act, omission or default of the Customer, including any failure to comply with the Customer obligations set out at Clause 9

the Supplier shall charge the Customer an aborted visit charge (which is currently £135.00). Rescheduled appointments following an aborted visit will be subject to new lead-times and will be confirmed to the Customer at the time.

5. Supply of Equipment

- 5.1 In any supply of Equipment set out in the Customer's Order Form (**SC Code "S"**), in addition to these Standard Terms and Conditions, the Supplementary Terms and Conditions set out in Part 2 of the Schedule shall also apply in the Contract between the Supplier and the Customer in relation to that part of the Order.
- 5.2 In any supply of Equipment under hire or lease terms set out in the Customer's Order Form (**SC Code "L"**), in addition to these Standard Terms and Conditions, the Supplementary Terms and Conditions set out in Part 9 of the Schedule shall also apply in the Contract between the Supplier and the Customer in relation to that part of the Order.

6. Supply of services

- 6.1 Where the Customer's Order Form indicates an SC Code in respect of any Services to be supplied then, in addition to these Standard Terms and Conditions, the following Supplementary Terms and Conditions shall apply in the Contract between the Supplier and the Customer in relation to that part of the Order:
- (a) for supply of Network Services set out in the Customer's Order Form under **SC Code "N"**, the Supplementary Terms and Conditions set out in Part 1 of the Schedule;
 - (b) for supply of Hosted Telephony Services set out in the Customer's Order Form under **SC Code "H"**, the Supplementary Terms and Conditions set out in Part 3 of the Schedule;
 - (c) for supply of Maintenance Services set out in the Customer's Order Form under **SC Code "M"**, the Supplementary Terms and Conditions set out in Part 4 of the Schedule;
 - (d) for supply of Software Consulting Services (custom software, ERP, CRM and POS solutions) set out in the Customer's Order Form under **SC Code "SW"**, the Supplementary Terms and Conditions set out in Part 5 of the Schedule.
 - (e) for supply of labour Services set out in the Customer's Order Form under **SC Code "E"**, the Supplementary Terms and Conditions set out in Part 6 of the Schedule.
 - (f) for supply of Access Services set out in the Customer's Order Form under **SC Code "A"**, the Supplementary Terms and Conditions set out in Part 7 of the Schedule.
 - (g) for supply of IT Cloud Services set out in the Customer's Order Form under **SC Code "C"**, and/or UKNGROUP support Services set out in the Customer's Order Form under **SC Code "T"**, the Supplementary Terms and Conditions set out in Part 8 of the Schedule.
- 6.2 The Supplier shall supply the Services to the Customer from the Contract Date in accordance with this Contract.
- 6.3 The Supplier may subcontract the provision of all or any part of the Services to third parties.



- 6.4 Times indicated for delivery, installation, Activation and for performance are estimated only and, while the Supplier shall use reasonable endeavors to meet dates set out in the Order Form, time is not of the essence in respect of performance of the Supplier's obligations hereunder.
- 6.5 In supply and Activation of the Services, the Supplier shall:
- (a) perform the Services:
 - (i) with reasonable care and skill;
 - (ii) during Opening Hours.
 - (b) use reasonable endeavors to perform and supply the Services in accordance with the applicable service description but service levels are target service levels only;
 - (c) not be liable for temporary loss or disruption to other telecommunications services;
 - (d) not be liable for any defect or default in the Services, or any part of them, that is attributable to elements that are not provided by it but by other suppliers and/or manufacturers (such as but not limited to access circuits, routers, installation);
 - (e) comply with all applicable laws, statutes, regulations and codes from time to time in force and observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Customer's Premises and have been communicated to the Supplier, provided that the Supplier shall have the right to make any changes to the Services which are necessary to comply with any applicable law or safety requirement, or which do not materially affect the nature or quality of the Services, and the Supplier shall notify the Customer in any such event and shall not be liable under this Contract if, as a result of needing to comply with any such law or requirement, it is rendered in breach of any of its other obligations under this Contract; and
 - (f) take reasonable care of all Customer Materials in its possession and make them available for collection by the Customer on reasonable notice and request, provided always that the Supplier may destroy the Customer Materials if the Customer fails to collect the Customer Materials within a reasonable period after termination of this Contract.

7. Third Party Supplies

- 7.1 Provided always that it has obtained the Supplier's prior written consent, and subject to these Terms and Conditions and in particular Clauses 7.2 and 7.5, the Customer may choose to use and/or install its own or another party's equipment, files or router in association with the Equipment and/or Services supplied.
- 7.2 The Customer hereby indemnifies and will keep the Supplier fully indemnified, against all costs, claims, damages, demands, expenses, losses and liabilities arising out of, or in connection with, any claim by a third party that the Equipment and/or Services (or use or supply of any of them) in any way breaches the third party's rights or causes it loss, damage or claim.
- 7.3 Any third-party equipment is supplied subject to the manufacturer's warranty, if any, and the Supplier provides no warranty for Equipment or any goods that it does not supply.
- 7.4 The Supplier makes no warranty that a Service will interoperate properly with any equipment not procured from the Supplier in connection with that Service.

7.5 Where the Supplier provides a modem for use with a Service, the Customer must use that modem and no other.

8. Repair & Maintenance

8.1 The Supplier provides no guarantee that the Services will work without interruption or will be fault-free. If the Customer experiences a fault, it must register and report it to the Supplier as soon as practicable, and the Supplier will use reasonable endeavors to correct or remedy any faults that are registered and reported within the respective target times set out in the Schedule here to entitled "SLAs". The Supplier's failure to meet the target times will not constitute a material breach of this Contract. Time is not of the essence in relation to this Clause.

8.2 If the Customer reports and registers a fault in the Service and the Supplier, in its absolute discretion, finds either that there is no fault or that it has arisen because of Customer default, the Supplier may charge the Customer its reasonable costs and expenses incurred for any work done to try to find the fault or to repair it.

8.3 Temporary changes may be made to the Network or the technical specification of a Service from time to time for operational or technical reasons. If these changes will be materially detrimental to the Service, the Supplier will use reasonable endeavors to inform the Customer in advance.

8.4 For the purpose of providing new installations, updating facilities and general maintenance, scheduled downtime will occur from time to time and:

- (a) the Supplier will use reasonable endeavors to provide at least five (5) Business Days' notice of any scheduled maintenance; and
- (b) where emergency maintenance is required, the Supplier will give as much notice as is reasonably practicable and will explain why the maintenance is necessary and why short notice must be given. On rare occasions it may only be possible to give this notification after the emergency maintenance has taken place.

8.5 Where with the Supplier's agreement in accordance with Clause 7.1 above, the Customer provides its own equipment, the Customer will, at its own cost, be responsible for repairing, maintaining, and replacing any equipment that no longer operates in accordance with its manufacturer's specifications. Where the Customer replaces the Equipment, the replacement shall be (i) equivalent to the original's functionality and performance, and (ii) approved by the Supplier in writing. The Customer will be responsible, at its own cost, for (i) reconfiguring any replacement of the Equipment to the same or equivalent configuration as the original (if agreed by the parties, such reconfiguration work may be provided by the Supplier as a professional service at its then current standard rates), and (ii) installing such reconfigured replacement in place of the original.

8.6 The Supplier shall not be liable for any impact on the Service caused by the substandard or defective performance or non-availability of the Customer's equipment which shall be excluded from the Supplier's service level obligations under this Contract.

9. Customer's obligations

- 9.1** The Customer shall obtain before the Contract Date and maintain at its own cost for the term of the Contract, all necessary authorizations, licenses, consents or approvals, including for finance, and any applicable planning, landlord, access or wayleave consents which may be required in connection with supply of the Services.
- 9.2** The Customer hereby grants to the Supplier, its agents, representatives and subcontractors, the right during the term of the Contract:
- (a) to install and keep installed the Equipment at each of the Customer's Premises;
 - (b) to enter and re-enter each of the Customer's Premises as and when required including any access reasonably required outside of the Customer's Opening Hours; and
 - (c) of access at no charge to the Customer's information technology, telecommunications and network facilities (including full remote access), computer systems, data and other facilities as reasonably required by the Supplier, its agents, subcontractors and employees;
 - (d) in each of cases (a) to (c) to:
 - (i) install, test, operate, maintain and remove the Equipment;
 - (ii) provide the Services;
 - (iii) provide training;
 - (iv) protect and/or safeguard the integrity, operation and functionality of the Supplier's (and neighboring) networks; and/or (ii) to comply with any and all orders, notices, directives or requests of a competent legal or regulatory authority; and the Customer warrants and represents that it is entitled to grant the rights set out in this Clause 9.2.
- 9.3** The Customer shall:
- (a) co-operate with the Supplier in all matters relating to the Services;
 - (b) follow the Supplier's reasonable instructions including ensuring that the Equipment and all other equipment connected to a Service is connected to and used with the Service in accordance with all relevant published instructions and any safety and security procedures notified to the Customer.
 - (c) prepare the Customer's Premises, office accommodation, computer systems and/or devices and other facilities for the supply of the Services, in accordance with the reasonable requests of the Supplier, its agents, subcontractors and employees including putting in place, at its own cost and risk, all adequate security and virus checking systems to protect its computer systems, equipment, network elements and data and the Customer shall notify the Supplier, its agents, subcontractors and employees of any reasonable regulations to be complied with at any of the Customer's Premises;
 - (d) protect all passwords, employ appropriate security measures and devices including virus checking software and maintain (and ensure that each of its authorized users maintains) the integrity and secrecy of all passwords, log-in details and access codes used for the purposes of accessing or using the Services or any systems, equipment, network elements and data;
 - (e) provide a safe, secure and suitable environment for storing and installing the Equipment and for working, maintain adequate employer's and public liability



insurances, and supply on an ongoing basis, at its cost, all space, power supply, access points, cables, trunking, electricity, air conditioning and any other facility as may be reasonably required by the Supplier, its agents, subcontractors and employees;

- (f) keep and maintain all materials, equipment, documents and other property of the Supplier (**Supplier Materials**) including modems, voice cards and line cards, at the Customer's Premises in safe custody at its own risk, maintain the Supplier Materials in good condition until returned to the Supplier, and not dispose of or use the Supplier Materials other than in accordance with the Supplier's written instructions or authorization from time to time;
- (g) not maintain, service, repair or make any replacement, modification, adjustment or connection to the Equipment save as agreed by the Supplier in writing;
- (h) not tamper with, hack, reverse engineer, re-set, copy, adapt, decompile, disassemble or modify any part or all of the Supplier Materials or Equipment or attempt to do any such thing;
- (i) not use or access or allow use or access to any Supplier Materials, Equipment and/or Service supplied under the Order:
 - (i) by any third party; or
 - (ii) in breach of the Supplier's then current Acceptable Use Policy from time to time detailed at the web-address: www.memorli.co; or
 - (iii) in connection with the carrying out of any fraudulent, criminal, or any other illegal activity; or
 - (v) to send, knowingly receive, upload, download or use any material which is offensive, abusive, indecent, defamatory, obscene or menacing or in breach of copyright, confidence, privacy or any other rights; or
 - (vi) to cause nuisance, annoyance or needless anxiety; or
 - (vii) to send or provide or, knowingly receive responses to, any spam or unsolicited advertising or promotional material; or
 - (viii) to knowingly or recklessly transmit any electronic material (including viruses) which may cause or is likely to cause detriment or harm in any degree to computer systems owned by the Supplier or other Internet users; or
 - (ix) in a manner which restricts or inhibits any other user from using or enjoying the Supplier products or services; or
 - (x) to utilize excessive amounts of bandwidth exceeding the contention ratio guarantee of the product and not including 1:1 services (including repeatedly engaging site-local scripts or similar behavior) and;

in respect of any such illegal, fraudulent or unauthorized use of the Services, the Customer will notify the Supplier immediately it becomes aware of such. On receipt of such a notice, the Supplier shall use reasonable efforts to prevent such unauthorized use and reserves the right to suspend the Services or any part thereof until such unauthorized use is ceased in accordance with the provisions of Clause 9.4 below.

- (j) during the term of this Contract, agree to the Supplier taking steps to cancel transfers to other operators either to protect the Customer from slamming or to protect the Supplier's legitimate business interests;
- (k) provide and update, in a timely manner, such information and materials as the Supplier may reasonably require, and ensure that such information is complete and accurate in all material respects including the information contained within the Order Form and the contact details of its authorized representative and onsite and technical contact;
- (l) indemnify, and keep the Supplier fully indemnified, against all costs, claims, demands, expenses, and liabilities arising out of, or in connection with, any claim that the Service (or its use) infringes any applicable laws or regulations;
- (m) back-up any and all data contained on the Customer's computer systems and/or devices prior to the supply of the Services, such back-up to be retained and stored onto a removable medium stored separately from the computer systems and/or devices in accordance with good industry practice;
- (n) sign and return to the Supplier the job sheet, if applicable, indicating that the Supplier has satisfactorily completed the required Services.

9.4 Suspension

Without affecting any other right or remedy available to it, including its rights to claim payment of all Charges irrespective of the suspension and its rights to terminate, the Supplier may suspend provision of Services under this Contract with immediate effect by giving written notice to the Customer if the Supplier's performance of its obligations under this Contract or proper working or authorized use of the Equipment is prevented or delayed by any of the events referred to in Clauses (a) to (i) below:

- (a) the Customer is in breach of any of its obligations under this Contract; or
- (b) any circumstance or event exists or is threatened that would otherwise give the Supplier the right to terminate the Contract or the Supplier reasonably believes that the Customer is about to become subject to any of them; or
- (c) the Customer makes unreasonable or unnecessary calls for support to the Supplier in respect of matters that can be addressed by Customer training or reading information provided in the Supplier Materials and information provided by the Supplier in association with the supply; or
- (d) a need to avoid loss, damage or disruption being caused to third parties; or
- (e) any operational or technical reasons including any damage or delay resulting from accident, transportation, neglect or misuse, failures of electrical power, surge of electrical power, lightning damage, water damage or causes other than ordinary use, any fault, failure or change in the electricity supply or telecommunications connections, defects in external or internal cabling at or serving the Customer's Premises, and/or in BT's equipment, and/or other network suppliers' telephone service and connections, and/or Host PBX systems; or
- (f) any regulatory or legal obligation; or
- (g) delay in the execution of any work of installation, activation, maintenance, repair, replacement, alteration or removal of or to the Equipment howsoever caused; or
- (h) any unauthorized use of any part of the Services, Equipment or Supplier Materials (including any of the matters referred to in Clause 9.3 (f) to (i) above); or

- (i) any other default by act or omission of the Customer, its agents, subcontractors, or employees, or third-party suppliers, to perform any relevant obligation.

9.5 Consequences of suspension

In exercising its right of suspension in accordance with Clause 9.4, the Supplier shall:

- (a) be entitled to continue to suspend performance of the Services until the relevant event or events described in Clause 9.4 (a) to (i) inclusive has or have (as the case may be) been remedied, and to rely on the relevant event or events to relieve it from the performance of any of its obligations; and
- (b) not be liable for any costs, charges or losses sustained or incurred by the Customer that arise directly or indirectly from such suspension, prevention or delay; and
- (c) be entitled to payment of the Charges during the period of suspension, including any additional costs or losses sustained or incurred by the Supplier arising directly or indirectly from any of the events described in Clause 9.4 (a) to (i) inclusive; and
- (d) be entitled to recover any additional costs, charges or losses the Supplier sustains or incurs that arise directly or indirectly from such prevention or delay.
- (e) lift its suspension or recommence its provision of the Services within a reasonable timescale after:
 - (i) the event or events described in Clause 9.4 (a) to (i) has or have (as the case may be) been remedied; and
 - (ii) in case of any unauthorized use of any part of the Services, Equipment or Supplier Materials (including any of the matters referred to in Clause 9.3 (f) to (i) above); the Customer demonstrates to the Supplier's reasonable satisfaction that appropriate technical, organizational, security or other measures have been put in place to prevent any further unauthorized use; and
 - (iii) where required by the Supplier, a re-connection fee of up to £500 is paid and/or the Customer pays a security deposit on account of future Charges invoiced of no less than £500.

9.6 Where the Supplier has the right to suspend or terminate the Services under Clause 9.4 and the conditions in which the Supplier is required to lift its suspension or recommence its provision of the Services under Clause 9.5 (e) have not been met within 30 days' of the date on which the Supplier has received the relevant notice under Clause 9.4, the Contract relating to such Services shall be deemed terminated and the provisions of Clause 13 shall apply.

10 Intellectual Property

10.1 The Supplier and its licensors shall retain ownership of all Supplier IPRs. The Customer and its licensors shall retain ownership of all Intellectual Property Rights in the Customer Materials (if any).

- 10.2** All Supplier Materials are the exclusive property of the Supplier.
- 10.3** The Customer acknowledges that, in respect of any third party Intellectual Property Rights included in the Supplier IPRs, the Customer's use of any such Intellectual Property Rights is conditional on the Supplier obtaining a written license from the relevant licensor on such terms as will entitle it to license such rights to the Customer. The Supplier shall use reasonable endeavors to procure such license. The Supplier shall also grant to the Customer, in respect of such of the Supplier IPRs as are owned by it, a fully paid-up, worldwide, non-exclusive, royalty-free, license to use the Supplier owned Supplier IPRs and the Supplier Materials for the purpose of receiving and using the Services in the Customer's business during the term of the Contract.
- 10.4** The Customer grants the Supplier a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable license to copy and modify the Customer Materials for the term of this Contract for the purpose of providing the Services to the Customer in accordance with this Contract.
- 10.5** The Customer shall keep the Supplier indemnified in full against any sums awarded by a court against the Supplier as a result of or in connection with any claim brought against the Supplier for infringement of a third party's rights (including any Intellectual Property Rights) arising out of, or in connection with, the receipt or use of the Customer Materials by the Supplier.

11 Charges and payment

- 11.1** Time is of the essence in respect of the Customer's payment obligations.
- 11.2** All Initial Charges, as set out in the Order Form, are due from the Contract Date.
- 11.3** Subject to the provisions of Clause 11.5, all Recurring Charges, as set out in the Order Form, shall be due immediately on each invoice date which at the Supplier's absolute discretion, can be prepared and dated on delivery of Equipment, or monthly, quarterly or annually (the **Payment Period**) in advance or arrears depending on the circumstances and nature of the supply of Equipment and/or Services ordered. At the Supplier's absolute discretion, a minimum invoice policy may apply if the Customer's total monthly invoice is less than £5.00 (excluding VAT).
- 11.4** Each invoice shall include reasonable supporting information.
- 11.5** The Customer shall arrange payment by direct debit to the Supplier's bank account nominated in writing by the Supplier or as stated on the Order Form. The Customer shall be required to set up a direct debit authority, in favor of the Supplier's nominated account, on the Contract Date and before Activation, for payment of all Charges.
- 11.6** Recurring Charges shall accrue daily with effect from the date of Activation and shall be invoiced in advance (excluding call charges which shall be invoiced in arrears) at the frequency specified on the Order Form and shall be payable by direct debit.

- 11.7** The first instalment of Recurring Charges will be made up of (a) a proportionate charge in respect of the period from the scheduled date of Activation to the end of the month in which Activation is scheduled plus (b) the full amount due for the next Payment Period beginning on the first day of the month next following the month of the date scheduled for Activation. Payment Periods shall always start on the first day of a month.
- 11.8** The Customer shall ensure that it has sufficient funds available for collection of each direct debit payment and shall not cancel such direct debit instruction or take or fail to take any other action that results in payment failure. Any failure to comply with these provisions may result in suspension of Services under Clause 9.4 and shall incur an additional processing fee of £75 and a re-connection fee in accordance with Clause 9.5(e)(iii) of up to £500.
- 11.9** If part or all of the Charges remain unpaid and outstanding the Supplier is entitled to suspend Activation or supply of all Services and the provisions on suspension set out in Clause 9.4 shall apply.
- 11.10** In addition to the Charges for Equipment and/or Services, the Supplier shall be entitled to charge the Customer for any costs and expenses reasonably incurred by the Supplier or its agents, subcontractors or employees in connection with supply of the Services including, but not limited to, the cost of time and materials, necessary air or other travel expenses, hotel accommodation, subsistence and any associated expenses. For the avoidance of doubt, the Customer shall be notified of any such expenses prior to such expenses being incurred.
- 11.11** In respect of the supply of Equipment including hardware, software, and Supplier Materials:
- (a) the Supplier shall expect full payment in cleared funds before delivery;
 - (b) the price for Equipment shall be the price set out in the Order Form or, if no price is quoted, the price set out in the Supplier's published price list as at the date of delivery. The price of the Equipment is exclusive of all costs and charges of packaging, insurance, transport of the Equipment;
 - (c) the Supplier reserves the right to increase the price of the Equipment, by giving notice to the Customer at any time before delivery, to reflect any increase in the cost of the Equipment to the Supplier that is due to:
 - (i) any factor beyond the control of the Supplier (including foreign exchange fluctuations, inflation, increases in taxes and duties, and increases in labor, materials and other manufacturing costs);
 - (ii) any request by the Customer to change the delivery date(s), quantities or types of Equipment ordered, or the Equipment Specification; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Equipment or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Equipment.

11.12 In respect of the supply of Services:

- (a) the Supplier shall expect full payment in cleared funds within 14 days of the invoice date;
- (b) the price for Services shall be the price set out in the Order Form;
- (c) the Supplier reserves the right to increase the price of the Services, by giving one month's notice in writing to the Customer, to reflect any increase in the cost of the Services to the Supplier that is due to:
 - (i) any increase in underlying costs including increases in inflation, taxes and duties, supplier costs, and increases in labor and materials costs. The Customer is entitled to request from the Supplier in writing reasonable evidence of such increases in underlying costs;
 - (ii) any request by the Customer to change the Services Specification; or
 - (iii) any delay caused by any instructions of the Customer in respect of the Services or failure of the Customer to give the Supplier adequate or accurate information or instructions in respect of the Equipment.

11.13 All Charges and payments due are stated excluding value added tax (VAT), which the Customer shall additionally be liable to pay to the Supplier at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.

11.14 All amounts due under this Contract shall be paid by the Customer to the Supplier in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law) and the Customer shall not be entitled to assert any credit, set-off or counterclaim against the Supplier in order to justify withholding payment of any such amount in whole or in part.

11.15 If the Customer fails to make any payment due to the Supplier under this Contract by the due date for payment, then, without prejudice to the Supplier's other rights and remedies:

11.16 The Customer shall pay interest on the overdue amount at the rate of 4% per annum above Metro Bank PLC's lending base rate from time to time. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after judgment. The Customer shall pay the interest together with the overdue amount.

11.17 The Supplier may suspend all Services until payment has been made in full.

11.18 For the avoidance of doubt, all deposits or other amounts paid by the Customer to the Supplier on account of any supply may be used to pay any outstanding debts owed by the Customer to the Supplier in respect of supplies under this Contract or any other contract between the parties.

11.19 Where the Customer disputes any amount due under an invoice:

- (a) the Customer shall notify the Supplier in writing within five (5) Business Days of date of issue of the relevant invoice, such notification to provide a detailed account of why the invoice is disputed, including all calculations; and
- (b) the undisputed sum shall be payable in accordance with Clause 11.5 and the parties shall act in good faith and use reasonable endeavors to resolve the disputed sum within ten (10) Business Days of notification of the dispute by Customer; and

- (c) if the dispute is not resolved within the ten (10) Business Day time period, the Supplier may exercise all rights and remedies at law or hereunder including but not limited to suspension of the Service.

12 Limitation of liability

12.1 Nothing in this Contract shall limit or exclude the Supplier's liability for:

- (a) death or personal injury caused by its negligence, or the negligence of its personnel, agents or subcontractors
- (b) fraud or fraudulent misrepresentation; and
- (c) breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession) or any other liability which cannot be limited or excluded by applicable law.

12.2 Subject to Clause 12.1, the Supplier shall under no circumstances whatever be liable to the Customer, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Contract for:

- (a) loss of profits;
 - (b) loss of opportunity, sales or business;
 - (c) loss of agreements or contracts;
 - (d) loss of anticipated savings;
 - (e) loss of or corruption of software, data or information;
 - (f) loss of or damage to goodwill or reputation;
 - (g) any indirect, incidental, special or consequential loss or damage;
- and for the avoidance of doubt, the losses excluded shall include any arising:
- (i) from any circumstance or event listed in Clause 9.4, sub-Clauses (a) to (i) inclusive;
 - (ii) from any delay, act, omission or default of the Customer or a third party;
 - (iii) under or in connection with use of equipment not supplied or maintained by the Supplier;
 - (iv) under or in connection with accident, neglect, virus or malware attacks, network down-time, misuse, transportations or moving, excessive fluctuations in mains electrical supply, damage caused by equipment not supplied by, or by hardware and/or software not maintained by, the Supplier or any other circumstances beyond the control of the Supplier during the support of hardware and/or software;
 - (v) under or in connection with the operating environment at the Customer's Premises electromagnetic interference, defective operation or failure of BT equipment or any other network supplier's equipment and/or Host PBX systems;
 - (vi) Force Majeure Events;
 - (vii) under or in connection with the loss or corruption of data;

- (viii) under or in connection with the failure or down-time of any third-party telecommunications services or Cloud Services;
- (ix) under or in connection with any amendments to the Customer's requirements beyond those stated prior to the Contract Date;
and the Customer agrees that (i) the level of the Charges has been calculated on the basis of the above limitations and exclusions; and (ii) it is advised to obtain insurance in respect of any liability excluded by the Supplier hereunder including but not limited to the loss or corruption of data; and (iii) the above exclusions and limitations are reasonable in light of the Charges and Services provided.

12.3 Subject to Clause 12.1, the Supplier's total liability to the Customer, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with this Contract shall be limited:

- (a) in respect of a proven fault or defect in supplies of Equipment, to the value of the Equipment;
- (b) in respect of supplies of Services to the value of the invoice on which the faulty Services are listed.

12.4 Nothing in this Contract shall be taken as in any way reducing or affecting the Customer's general duty to mitigate loss.

12.5 All warranties, conditions and other terms implied by statute or common law including those implied by sections 3 to 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Contract.

12.6 This Clause 12 shall survive termination of the Contract.

13 Termination

13.1 Termination of the Contract shall automatically effect termination of any other Contract with the Customer unless agreed in writing by the Supplier, in which case a revised Contract shall continue with the Customer in respect only of the supplies the Supplier has agreed to continue supplying.

13.2 On termination of this Contract for whatever reason:

- (a) the Supplier shall immediately cease provision of the Services
- (b) the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and any further amounts due under this contract including amounts due in accordance with Clauses 13.3 and 13.4, in respect of which the Supplier may submit an invoice, which shall be payable immediately on receipt;
- (c) the Supplier shall apply any credit balance in respect of deposits or other monies held on account not otherwise needed to pay off outstanding unpaid charges, invoices and interest against the final invoice and, if any refund is due, this will be paid by the Supplier by BACS transfer to a nominated bank account supplied in writing by the Customer.

13.3 If the Customer cancels any part of an Order at any time after the seventh day first following the Contract Date but before installation and/or Activation is completed it shall be liable for payment of the Activation Charges and Recurring Charges for the entire Minimum Term, subject in case of Small Business Customers to a limit of 24 months' in

accordance with Ofcom General Condition 9.4.

13.4 Where, except as provided in Clause 13.3 above, the Contract is terminated by either party or otherwise brought to an end:

- (a) all Recurring Charges for the remainder of the Minimum Term or the Renewal Term (as applicable), whether or not yet invoiced, including any charges for line rental and call charges and lost call charges, which shall be estimated for the entire remainder of the Minimum Term or the Renewal Term (as applicable) (subject in case of Small Business Customers to a limit of 24 months' in accordance with Ofcom General Condition 9.4), based on the average amount invoiced for call charges during the term to date or the previous 6 months (whichever is the shorter), shall become payable immediately; and
- (b) the Customer agrees that the provisions in 13.4(a) above give the Supplier a right to invoice and recover what represents a reasonable pre-estimate of the Supplier's losses and is not onerous or a penalty.

13.5 Without affecting any other right or remedy available to it, the Supplier may terminate this Contract by giving the Customer 90 days' written notice to expire on or after expiry of the Minimum Term.

13.6 Without affecting any other right or remedy available to it, the Supplier may terminate this Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer commits a material breach of any term of this Contract which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 14 days after being notified in writing to do so;
- (b) any required third party authorizations, licenses, consents or approvals, including for finance, and any applicable planning, landlord, access or wayleave consents necessary for all or any part of the supply of Equipment and/or Services is withdrawn.
- (c) the Customer suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- (d) the Customer commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of the Customer;
- (e) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Customer (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Customer with one or more other companies or the solvent reconstruction of the Customer;
- (f) the Customer (being an individual) is the subject of a bankruptcy petition or order;
- (g) a creditor or encumbrancer of the Customer attaches or takes possession of, or a distress,

execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within 14 days;

- (h) an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Customer (being a company);
- (i) the holder of a qualifying charge over the assets of the Customer (being a company) has become entitled to appoint or has appointed an administrative receiver;
- (j) a person becomes entitled to appoint a receiver over the assets of the Customer or a receiver is appointed over the assets of the Customer;
- (k) any event occurs, or proceeding is taken with respect to the Customer in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 13.6 (c) to Clause 13.6 (j) (inclusive);
- (l) the Customer ceases or threatens to cease to carry on all or a substantial part of its business;
- (m) the Customer (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation; or
- (n) the Customer's financial position deteriorates to such an extent that in the Supplier's opinion the Customer's capability to adequately fulfil its obligations under this Contract has been placed in jeopardy.

13.7 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract with immediate effect by giving written notice to the Customer if:

- (a) the Customer fails to pay any amount due under this Contract on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment; or
- (b) if required by a legal or regulatory obligation including a direction of Ofcom.

13.8 Provided always that it has paid all monies due to the Supplier in full and no supply has been and remains suspended by the Supplier in accordance with Clause 9.4, the Customer may terminate this Contract:

- (a) with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of Clause 6.2; or
- (b) by giving the Supplier:
 - (i) 30 days' notice, in the event that the Term is renewable on a monthly basis in accordance with the Schedule;
 - (ii) 90 days' notice in the event that the Term is renewable on a yearly or longer-term basis, such notice to expire on the following anniversary of the Commencement Date

13.9 On termination of this Contract for whatever reason:



- (a) the Customer shall return all of the Supplier Materials which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's Premises and take possession of them. Until they have been returned, the Customer shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract;
- (b) the Customer shall return all telephone numbers.

13.10 Termination of the Contract shall not affect any of the parties' rights, remedies, obligations and liabilities that have accrued as at termination, including the right to claim damages in respect of any breach of this Contract which existed at or before the date of termination; and

13.11 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination shall remain in full force and effect.



14 General

14.1 Force Majeure

- (a) For the purposes of this Contract, **Force Majeure Event** means an event beyond the reasonable control of the Supplier including but not limited to strikes, lock-outs or other industrial disputes (whether involving the workforce of either party or any other third party), failure of a utility service, communications network or transport network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors.
- (b) The Supplier shall not be liable to the Customer as a result of any delay or failure to perform its obligations under this Contract as a result of a Force Majeure Event.
- (c) If the Force Majeure Event prevents the Supplier from supplying any of the Services and/or Equipment under this Contract for more than 60 Business Days, the Supplier shall, without limiting its other rights or remedies, have the right to terminate the Contract immediately by giving written notice to the Customer.

14.2 No Partnership

Nothing in these Terms and Conditions is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the Supplier and Customer, nor constitute either as the agent of the other for any purpose. Neither party shall have authority to act as agent for, or to bind, the other in any way.

14.3 Assignment and other dealings

- (a) The Customer shall not assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Contract without the Supplier's prior written consent.
- (b) The Supplier may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under this Contract and may sub-contract or delegate in any manner any or all of its obligations under this Contract to any third party or agent.

14.4 Confidentiality

- (a) Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, including passwords, logon codes, technical or commercial know-how, specifications, inventions, processes or initiatives, data, materials, technology, computer programs, software, specifications, manuals, business plans, marketing plans or any Intellectual Property Rights which are of a confidential nature, except as permitted by Clause 14.4 (b).
- (b) Each party may disclose the other party's confidential information:
 - (i) to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes only of either carrying out the party's obligations or exercising its rights under this Contract. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this Clause 14.4; and

- (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority provided that, to the extent it is legally permitted to do so, the disclosing party gives the other as much notice of such disclosure as possible.
- (c) No party shall use any other party's confidential information for any purpose other than to perform its obligations or to exercise its rights under this Contract.
- (d) This Clause 14.4 shall survive termination of the Contract.

14.5 Data Protection

- (a) Each Party shall comply with all applicable requirements of the Data Protection Legislation. This clause 14.5 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.
- (b) The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the data controller and the Supplier is the data processor (where **Data Controller**, **Data Processor** and **Personal Data** have the meanings as defined in the Data Protection Legislation).
- (c) Without prejudice to the generality of clause 14.5.(a), to the extent that the Services involve the processing of any Personal Data, the Customer shall ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of any Personal Data to the Supplier for the duration and purposes of this Agreement.
- (d) Without prejudice to the generality of clause 14.5.(a), the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement:
 - (i) process that Personal Data only on the written instructions of the Customer unless the Supplier is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Supplier to process Personal Data (Applicable Laws). Where the Supplier is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;
 - (ii) ensure that it has in place appropriate technical and organizational measures, reviewed and approved by the Customer, to protect against unauthorized 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 unauthorized 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 (those measures may include, where appropriate, pseudonymizing and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organizational measures adopted by it);



- (iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
 - (iv) not transfer any Personal Data outside of the European Economic Area unless the following conditions are fulfilled:
 - (iv.i) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (iv.ii) the data subject has enforceable rights and effective legal remedies;
 - (iv.iii) the Supplier 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.iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
 - (v) assist the Customer, at the Customer's 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;
 - (vi) notify the Customer without undue delay on becoming aware of a Personal Data breach;
 - (vii) at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Applicable Law to store the Personal Data; and
 - (viii) maintain complete and accurate records and information to demonstrate its compliance with this clause 14.5.
- (e) Either Party may, at any time on not less than 30 days' notice, revise this clause 14.5 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).
- (f) From time to time the Supplier may contact the Customer about products and services from the Supplier and its business partners. The Customer may opt-out of receiving mailings by contacting the Supplier at sales@memorli.co
- (g) The Supplier may with the prior written approval of Customer (i) identify the Customer as its Customer, (ii) use the Customer's name, logo and other identifying information or image in connection with emails, communications, and proposals to other prospective Customers, and (iii) disclose the terms of this Agreement as may be required by law.

14.6 Entire agreement

- (a) This Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter and the Customer confirms that it has not entered into this Contract on the basis of or relying on the same.
- (b) Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

14.7 Variation

- (a) The Supplier shall notify the Customer of proposed variations to the terms of this Contract with each monthly invoice and on its website at www.memorli.co. No variation of this Contract shall be effective unless it is in writing and signed by the parties (or their authorized representatives). If a variation is not acceptable to the Customer, it shall be deemed to give notice to terminate in accordance with the applicable notice period set out in Clause 13.8(b), such notice commencing on the date of the Supplier's notice of the proposed variations.
- (b) If the Customer asks the Supplier to make any change to the Order, it must confirm its request in writing within a reasonable timeframe. The Supplier can in its absolute discretion refuse the request. Where the Supplier is willing to meet the request, it will accommodate it as soon as practicable provided always that, at the Supplier's absolute discretion, it shall assess and levy a reasonable administrative charge to cover its costs in doing so.

14.8 Waiver

- (a) A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default. A delay or failure to exercise, or the single or partial exercise of, any right or remedy shall not:
 - (i) waive that or any other right or remedy; or
 - (ii) prevent or restrict the further exercise of that or any other right or remedy.
- (b) Unless specifically provided otherwise, rights arising under these Terms and Conditions are cumulative and do not exclude rights provided otherwise by law.

14.9 Severance

- (a) If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this Clause shall not affect the validity and enforceability of the rest of this Contract.
- (b) If one party gives notice to the other of the possibility that any provision or part-provision of this Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.



14.10 Notices

- (a) Any notice or other communication given to a party under or in connection with this Contract shall be in writing, addressed to that party at its registered office or such other address as that party may have specified to the other party in writing in accordance with this Clause, and shall be delivered personally, or sent by pre-paid first-class post or other next working day delivery service, commercial courier, fax or email.
- (b) Written notice by the Customer of cancellation or termination must be made by email to: sales@memorli.co. Notification via telephone or by email to any other address will not be accepted.
- (c) Notices by the Supplier to Customer may be made by email to the primary Customer representative stated on the Order or registered with the Supplier if updated since time of Order.
- (d) A notice or other communication shall be deemed to have been received: if delivered personally, when left at the address referred to in Clause 14.10 (a); if sent by pre-paid first class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed; or, if sent by fax or email, one Business Day after transmission.
- (e) The provisions of this Clause shall not apply to the service of any proceedings or other documents in any legal action.

14.11 Third party rights.

No one other than a party to this Contract shall have any right to enforce any of its terms.

14.12 Mediation

- (a) In the event of a dispute between the Parties arising out of or in connection with these Terms and Conditions, the Parties agree to engage in mediation moderated by an independent mediator in an effort to resolve such a dispute prior to the initiation of any formal legal proceedings.
- (b) Costs arising in connection with the operation of Clause 14.12 (a) shall be split equally between the Parties.

14.13 Counterparts

This Contract and any Order Form incorporated within it may be executed in any number of counterparts each of which when executed and delivered shall be an original but all the counterparts together shall constitute one and the same instrument.

14.14 Complaints

If you wish to make a complaint, please refer to our Complaints Procedure at www.memorli.co.

14.15 Governing Law and Jurisdiction

This Contract, 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.

Each party irrevocably agrees that the English courts shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract or its subject matter or formation (including non-contractual disputes or claims).

SCHEDULE –SLAs

Analogue phone lines, ISDN2 and ISDN30

Care Level	Target Resolution	
Care level 1	Clear by end of next Business Day + 1	Monday to Friday 8.00am to 18.00pm
Care level 2	Clear by end of next Business Day, Monday to Saturday	Monday to Saturday 8.00am to 18.00pm
Care level 3	Clear within 24 hours, 24/7	365 days, Mon to Fri 7.00am to 21.00pm, Sat - Sun 8.00am to 18.00pm
Care level 4	Clear within 6 hours	365 days 24/7

Standard Broadband and FTTC Services

No guarantees given on individual service issues

Assured and Converged Broadband and FTTC Services

Within 22 clock hours following initial diagnostic tests (excludes underlying line faults)

Leased Line, EFM and EoFTTC Services

Excludes physical infrastructure issues associated with an individual access service

Severity	Description	Target Time to Resolve from a validated fault
Priority 1	Total loss of Connection (e.g. total circuit or equipment failure)	within 8 Clock Hours
Priority 2	High - Loss of service - single service	within 1 Business Day
Priority 3	Medium - Disrupted service - multiple or single services	within 3 Business Days



Hosted services (SIP, Horizon & Inbound)

Service issues only, excludes underlying access or line faults

Severity	Description	Target Time to Resolve
Priority 1	Critical Fault - Loss of service - Multiple services affected	4 clock hours
Priority 2	High - Loss of service - single service	8 clock hours
Priority 3	Medium - Disrupted service - multiple or single services	3 Business Days
Priority 4	Low - Single number destinations/QOS	7 Business Days

Please communicate your agreement to these Terms of Business by e-signing below

Signature:
