

AGREEMENT FOR THE PROVISION OF CALLS, LINES AND SERVICES

1. Definitions and interpretation

Agreement: means these Terms & Conditions together with the Order Association Company; means any company which is a parent company of the relevant entity or a subsidiary of such parent company, where parent company and subsidiary have the meanings set out in section 736 of the Companies Act 1985.

BT: means British Telecommunications Plc and its associated companies.

CPS: means carrier pre-selection

Call Charges: means the Suppliers charges for calls made on the System (including reverse charge calls) as specified in the Order or otherwise notified by the Supplier

Charges: means any or all of the charges and fees payable by the Customer for the Service pursuant to this agreement.

Confidential Information: means any information, whether confidential or not, in documentary or other form, which relates to the business of the Supplier including, without limitation, any information relating to products, Customers, pricing, policies, methods, business plans and strategies, technical processes and financial affairs, in all cases where expressly stated to be confidential or not. Local Loop: means the element of the call from the Customer's premises to the local BT telephone exchange.

Connection Charge: means the non-refundable charge payable by the Customer for installation and connection to the System as specified in the Order or otherwise notified by the Supplier.

Connection Point: means a terminal block, a socket for a removable plug, a distribution frame or any other device which the Supplier fixes in any of the sites to connect the Customer's equipment to an exchange line.

Customer: means the party purchasing the service as named in the Order

Early Termination Fee: means the Rental for the balance of the Minimum Period or any further successive period for lines and services as referred to in clause 2.1 that remains outstanding and/or the amount outstanding in the order or the average monthly call spend over the duration of the contract.

Exchange Line: means apparatus forming part of the system used by the Supplier to connect the site to a telephone exchange to provide the service.

IPR: means all intellectual property rights including, without limitation, copyright, patents, trademarks, registered designs, design rights, mask works, know how and all other similarly protected rights.

Minimum Period: means the period in months as set out in the order. **Offending material:** means any material, data, images or information that is

in breach of any law, regulation, code of practice or Suppliers acceptable use policy or abusive, indecent, defamatory, immoral, obscene or menacing or otherwise offensive; or in breach of confidence, IPR, privacy or any right of a third party.

Ofcom: means the Office of Communications or any similar office that may be appointed in addition or in substitution.

Order: means the Service Order Agreement signed by the parties or such other document that the Supplier deems to constitute the Order.

Rental: means the monthly fee (including line rental, broadband rental, equipment rental and other service rental) payable by the Customer for the service, as set out in the Order or otherwise notified by the Supplier or current rates.

Service: means any and all of the services that the Supplier has agreed to supply to the Customer, as set out in the Order. The charges have been based upon Calls, Lines and Services only being provided as part of the service where the Customer is also taking Calls from the Supplier in respect of the relevant Exchange Line. If the Calls, Lines or services on any relevant exchange lines cease to be provided the Supplier shall be entitled to amend its charges to its then standard charges for CPS as a stand-alone service.

Site: means any or all of the Customers sites at which the Supplier is providing the service.

Supplier: Midshire Business Systems (Communications) Limited (Company number 4351890) whose registered office is 95-97 Cato Street, Nechells, Birmingham, B7 4TS

Suppliers Equipment: means any equipment owned by the Supplier or its licensors that the Supplier uses to provide the service.

System: means the network that the Supplier uses to provide the service.

Telephone Directory: means a Telephone Directory published by BT or any other operator (as appropriate).

Working Day: means 09:00 to 17:00 Monday to Friday but excluding public holidays in the United Kingdom recognised by the Supplier. Any reference in this agreement to any provision of a statute shall be construed as a reference to that provision as amended, re-enacted or extended at the relevant time.

2. Duration and Scope of this Agreement

2.1 This Agreement commences on the date of acceptance of the Order by the Supplier for a minimum period as set out in the order. It will automatically be renewed at the end of the minimum period for successive periods of 12 months until terminated by either party at least 42 days before the end of the minimum period or 42 days before the end of any successive term. Such written notice of termination to be acknowledged in writing by the other party.

2.2 If the Customer terminates this agreement during the minimum period or any successive period and has no right to terminate under clause 7, or if CALLS, LINES AND SERVICES ceases to be provided on the relevant exchange line during the minimum period, the Customer shall pay, in addition to other sums payable up to the date of termination, the early termination fee.

2.3 Until termination for whatever reason, the Supplier agrees to provide the service to the Customer in accordance with this agreement in consideration of the agreement of the Customer to use the services in accordance with this agreement and to pay the charges when they are due.

2.4 The Customer hereby agrees to the termination of its existing contract for equivalent services with its existing communications service provider. The Customer shall provide to the Supplier any relevant account and calling line identification numbers that may be required by BT or any other communications provider, and also access to carry out their obligations for the Supplier, BT and anyone acting on either of their behalf, to the Customers premises if so required. The Customer acknowledges that the Supplier cannot process the provision of the service until such information and access is provided.

2.5 The Customer shall provide a suitable and safe working environment for the Supplier, BT and anyone acting on either of their behalf to the Customer's premises.

2.6 The provision of the service requires that BT or other communications provider undertake programming at exchange level. Accordingly, it is agreed that any act, default or delay by BT or other communications provider in carrying out such programming or otherwise relating to or affecting the service shall not be the responsibility of the Supplier.

2.7 The Calls and Lines and Broadband service is available only if the Customer has a valid contract for use of an analogue exchange line (in the case of the wholesale access service) or digital exchange line capable of supporting an existing ISDN30 service (in the case of wholesale ISDN30 service) direct exchange line (for each Exchange line being Ordered) which terminates on a connection point. If such contract does not exist the Customer must request the Supplier to have installed an exchange line, connection point and/or ISDN30 bearer as appropriate.

2.8 The Customer acknowledges that certain services are incompatible with the broadband or calls & line service available from BT and such incompatible services are excluded from the services provided by the Supplier. The Customer also acknowledges that some technical limitations within the system will not become apparent until after the service has been working for a time: in such circumstances the service may need to be withdrawn in which case the Customer shall be entitled to a pro rata rebate of any relevant charges paid in advance by the Customer.

2.9 The Customer equipment to be used connected with the service shall be connected by means of connection points and ancillary wiring. If the Customer wishes a connection point to be moved to another place within the site, the Supplier may agree, subject to payment of the Suppliers applicable charges. The Customer shall at the Suppliers request arrange for the customers equipment to be reprogrammed by its designated maintainer in accordance with instructions provided by the Supplier to enable any indirect or other access. The Supplier will have no responsibility in respect of such programming.

2.10 The Customer agrees that the broadband service is only available subject to the provision of the calls and lines service.

3. The Suppliers General Obligations

3.1 The provision of the service is subject to all relevant licences, infrastructure (or interconnect arrangements) and consent being in place. The Supplier shall use reasonable endeavours to meet any agreed dates but shall not be liable for failure to meet them. The Customer shall obtain any consent or facility that is necessary or desirable for the Supplier to provide the service on the site.

3.2 The Supplier shall exercise the reasonable care and skill of a competent communications operator. The service cannot be guaranteed to be fault free but the Supplier shall provide the same quality of service to the Customer as it provides from time to time to its Customers generally.

3.3 The Customer shall report any fault to the Supplier's Customer services department where it will be dealt with in accordance with the agreed fault repair service. Where no Supplier's equipment is installed the Supplier may request that the Customer first have its designated maintainer check the Customer's equipment. If the Supplier agrees to fix a fault that is caused by the Customer or that otherwise falls outside the responsibility of the Supplier or where no fault is found the Supplier may charge the Customer for any work that the Supplier has undertaken at its applicable man-hour rate.

3.4 The Supplier may alter the name or number of a telephone exchange serving the exchange line, the telephone number, or any other code or number whatsoever that the Supplier allocates to the Customer in instances where such alterations are required as a result of necessary operational or technical changes to the Suppliers communications network or changes in legal or regulatory requirements.

3.5 The Supplier will allocate a telephone number to the Customer in respect of the exchange line and unless the Customer requests otherwise will arrange for a free standard entry to be made in a Telephone Directory, if the Supplier agrees to arrange a special entry (for which charges would be made), this will be subject to additional terms and conditions.

3.6 Where the Supplier allocates telephone numbers to the Customer, the Customer will not (subject to any statutory or authorization provisions relating to number portability) acquire any rights whatsoever in such telephone numbers. The Customer will not apply for registration of the telephone numbers as part of a trademark.

3.7 If the Supplier has an agreement with the Customers existing communications service provider, the Supplier can, at the Customers request, provide the Customer with a telephone line using the Customers existing number subject to the following:

3.7.1 There are no technical reasons preventing the use of the number;

3.7.2 The existing communications service provider agrees to release the relevant telephone number(s);

3.7.3 The Customer agrees to cease service on the existing communications service providers telephone line using the telephone number and authorizes the Supplier to arrange for that cease to take place;

3.7.4 The Customer provides the Supplier with full details including (but not limited to) the account name, account number, service address and billing address;

3.7.5 The Customer pays the Supplier charges (if any) for number portability.

3.7.6 Number portability is only available at the site.

3.8 The Supplier does not accept any liability for claims relating to the Customers ability to use or to continue use of a particular telephone number.

4. The Customers Obligations

4.1 The Customer shall not utilise and shall ensure that no other persons uses the service;

4.1.1 For storing, reproducing, transmitting, communicating, or receiving any Offending Material; or

4.1.2 Fraudulently or for any criminal purpose or in a manner that is contrary to any regulatory or legal requirement; or

4.1.3 To make offensive, indecent, menacing, nuisance or hoax calls; or

4.1.4 Contrary to instructions that the Supplier may give to the Customer.

4.2 The Customer will provide the Supplier with all information that the Supplier needs and allow the Supplier to use that information for credit checking and debt collection (including disclosure to and use by third parties acting for the Supplier) and any other uses and disclosures allowed by the Data Protection Act 1998 and will allow the Supplier to disclose such information to the extent that the Supplier is required to do so by Ofcom, the law or any relevant authority.

4.3 The Customer shall keep all of the Suppliers equipment at the site safe and shall pay for the replacement and/or repair of any of the Suppliers equipment which is lost, damaged (otherwise by fair wear and tear) or destroyed. The Customer shall not alter or move any of the Supplier's equipment, nor do anything that is likely to damage or adversely affect its performance, nor remove or deface any words or signs on it, nor permit anyone else to do so. The Customer shall not sell, let, mortgage, charge, pledge, dispose of or do anything that would prejudice the Supplier's equipment or the system in any way. The Customer will allow the Supplier to inspect, test, modify, change, add to, replace or remove any Supplier's equipment, either remotely or via a designated maintainer. At the end of the term of the agreement, the Customer will allow the Supplier access at all times to collect any of the Supplier's equipment in the Customer's possession.

4.4 The Customer shall at its own cost arrange for the required site specific conditions, as notified by the Supplier. This will include, without limitation, mains electricity supply, connection points and computer terminals. The Customer shall prepare the sites in accordance with the Supplier's reasonable instructions and reinstate them at the Customer's expense after the Supplier has completed any work necessary for the Supplier to be able to provide the service.

4.5 The Customer shall ensure that any equipment (excluding Supplier's equipment) that it uses in connection with the service meets any legal or regulatory requirements and is approved for connection to the system. If not, the Customer must immediately disconnect it or allow the Supplier to do so at the Customer's expense.

4.6 The use of computing equipment and/or computer software owned and/or controlled by the Supplier (including computer networks and systems accessed via the network) is permitted for bona fide purposes and is subject to authorisation. Unauthorised or improper use of these facilities is a breach of this agreement and may give rise to withdrawal of the facilities and/or proceedings under the Computer Misuse Act 1990.

4.7 The Customer shall indemnify and keep indemnified the Supplier against all or any claims and associated costs, damages or expenses made by any third party as a consequence of any breach by or other act or omission of the Customer under or in relation to this agreement.

4.8 The Customer shall comply with any requirements notified by the Supplier relating to number portability

4.9 Where the Customers existing account with BT includes BT equipment which is not required for the provision of the service, the Customer shall contact BT in Order to remove the BT equipment or move such equipment to another BT account. As a result of the cancellation

4.10 No Order if accepted by the Supplier may be cancelled by the Customer without the agreement of the Supplier in writing. The Customer shall indemnify the Supplier in full against all losses, including loss of profit, cost incurred plus charges and expenses incurred by the Supplier.

5. Payments

5.1 The Supplier shall be entitled to send an invoice to the Customer for the connection charge when the telephone service is available to the Customer, for the rental quarterly in advance and for the call charges after the end of the month in which the relevant calls were made. The Customer shall pay all rentals and call charges whether the Customer or someone else uses the service. The call charges will be calculated using the details recorded or logged at the Supplier's telephone exchange and not details recorded by the Customer.

5.2 The Customer shall pay any cancellation charges, abortive visit charges, engineering visit or site survey charges, or maintenance service charges imposed on the Supplier by BT and relating to the service, save where such abortive visit or service maintenance charges arise through the Suppliers default.

5.3 The rental shall continue to be payable during any period of suspension or restriction requested by the Customer in addition to any charges for such suspension or restriction.

5.4 The charges are exclusive of value added tax or any other Government taxes then in force, which shall be payable by the Customer in addition to the charges at the rate applicable from time to time.

5.5 The Customer shall (without set-off or deduction) pay in pounds sterling all invoices issued by the Supplier within 14 days (fourteen) of the date upon them. If the Customer's credit rating decreases at any time, the Supplier shall be entitled to revise the credit terms to require payment upon invoice. The Customer fails to make payment by this date in full, in addition to the Suppliers right to suspend set out in clause 6.1 the Supplier may charge and administration fee of £10.00 and also interest at the rate of 8% per annum above the base rate of the Bank of England on any amounts outstanding from the due date for payment until payment is made in full.

5.6 All payments to account other than Direct Debit will attract an administration charge of £2.00 per month.

5.7 The Supplier may change the level of its charges after giving the Customers four (4) weeks written notice of its intention to do so. This notice shall be included in an invoice to the Customer. If the Supplier increases the charges by more than the retail price index plus 2 percentage points during the minimum period, the Customer may terminate the agreement in accordance with clause 2 within 10 days of receipt of the notice increase, without obligation to pay the Total Early Termination Fee.

5.8 The Supplier may also change the level of its charges during or after the Minimum period, retrospectively, as a consequence of (a) any Ofcom direction, determination, Order or similar decision, or (b) any notice issued by BT correcting an error in the amount or application of a charge or payment under its interconnect agreement with the Supplier. In both cases the Supplier shall only be entitled to change the level of its charges where the foregoing impacts upon the basis upon which the charges were calculated.

5.9 Where the Supplier agrees to do work outside a working day at the request of the Customer, the Supplier may charge the Customer in accordance with the Supplier's applicable man-hour rate.

6. Suspension and Variation of the service

6.1 The Supplier may, in its sole discretion and upon giving the Customer written notice, suspend or vary the service without compensation (unless due to the default of the Supplier) for any period during which:

6.1.1 The Supplier is required to do so in order to avoid a breach of the authorisation of the Supplier under the Communications Act 2003 as amended from time to time;

6.1.2 The Supplier is obliged or requested to comply with an Order or instruction of, or a recommendation or request to take such action received from the Government, Ofcom, Radio Communications Agency, an Emergency Services organisation or a competent administrative authority; or

6.1.3 The Supplier reasonably suspects or believes that the Customer is in breach of clause 4.1 or the Customer is in breach of clause 5;

6.1.4 The Customers credit rating decreases at any time, and the Customer fails to supply reasonable security in response to a request from the Supplier; or

6.1.5 The Supplier's contract with BT relating to the services is suspended, varied or terminated.

6.2 The Customer acknowledges that BT may make alterations to the service (including, without limitation, conversions, shifts, reconfigurations and renumbers) which may result in disruption.

6.3 The Customer shall reimburse the Supplier for all reasonable costs and expenses incurred as a result of the suspension and any recommendation or variation of the service where suspension or variation is implemented as a result of any act or omission of the Customer.

6.4 The Supplier may at any time suspend the service or any part of it without liability;

6.4.1 To vary the technical specification of the service in order to comply with any relevant law or regulation or direction from a competent authority; or

6.4.2 To repair, maintain or improve the service; the Supplier will, during such suspension under this clause 6.4, try to ensure that minimum disruption is caused to the service.

7. Termination

7.1 Either party may immediately terminate this agreement by written notice if the other party commits a material breach that is not capable of being remedied.

7.2 Either party may serve written notice requiring the other party to remedy within thirty (30) days of receipt of the notice a material breach of this agreement that is capable of remedy. In the absence of a remedy in this period, the party that is served notice and to remedy may immediately terminate this agreement by written notice.

7.3 The Supplier may immediately terminate this agreement by written notice if the other party commits an act of bankruptcy or goes into or is put into liquidation (other than solely for the purposes of a reconstruction or amalgamation) or if a receiver or administrator is appointed over all or part of the other parties assets or the other party enters into any of its property for non payment of monies owing.

7.4 If this agreement is signed before the Supplier has completed its credit check of the Customer, the Supplier shall be permitted to terminate this agreement immediately by written notice if the Customer fails to pass the Suppliers credit policy.

7.5 The Supplier shall be permitted to terminate this agreement immediately by written notice at any time for the reasons set out in clauses 6.1.1 and 6.1.2.

7.6 The parties to terminate this agreement given by this clause 7 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach. Following termination of the service, telephone service may be disconnected unless the Customer makes alternative arrangements with the Supplier or another communications service provider.

8. Limitations and Exclusions of Liability

8.1 This clause 8 sets out the Supplier's entire liability (including any liability for acts or omissions of the Supplier's employees, agents or subcontractors) to the Customer in tort, contract or otherwise arising in connection with the performance, non-performance or contemplated performance of this agreement. Except as set out in this agreement, the Supplier provides no warranties, conditions, or guarantees as to the description or quality of the service, and all warranties, conditions or guarantees implied by or expressed incorporated as a result of custom and practice, statute, common law or otherwise are hereby expressed included so far as permitted by law. The Supplier's duty in performing any obligations under this agreement is only to exercise reasonable care and skill of a reasonably competent communications provider.

8.2 Subject to clause 8.4, the Suppliers entire liability for non-fraudulent representation, or implied warranty, condition or other term, or under any at common law, or in tort (including negligence) or under the express terms of this agreement shall not in the aggregate, in any period of 12 months, exceed the charges paid in respect of that 12 month period. If for any reason this limit of liability shall be found to be unlawful or invalid by a court of competent jurisdiction, the Suppliers entire liability as referred to in this clause shall not exceed £1,000,000 (one million pounds sterling) for any one incident or series of related incidents and £2,000,000 (two million pounds sterling) in aggregate during the term of this agreement.

8.3 Notwithstanding anything to the contrary in this agreement, but subject to clause 8.4, the Supplier shall not be liable to the Customer under the express terms of this agreement or by reason of any fraudulent representation, or implied warranty, condition or other term, or any duty at common law, or any tort, for any loss of profits, or revenue loss of income or business, loss of goodwill or reputation, loss of anticipated savings, loss of data, loss of use, or damages, loss or expenses payable by the Customer to any third party or any indirect or consequential or special loss or damage whatsoever and howsoever caused.

8.4 The Supplier shall not exclude or restrict liability for death or personal injury resulting from its own negligence or for fraudulent misrepresentation.

8.5 Each of the Supplier and the Customer acknowledges that it considers the provisions of this clause 8 to be reasonable taking account of the terms of this agreement (including the charges) and its ability to insure against losses which may arise from any breach by the other party of its obligations under this agreement.

8.6 The provisions of this clause 8 shall survive termination or expiry of the agreement.

9. Confidentiality and Data Protection

9.1 The Customer agrees to keep all confidential information confidential to disclose it only to its employees that need to know it and to use it exclusively for the purposes contemplated by this agreement.

9.1.1 This clause shall not apply to information that the Customer can prove: 9.1.1.1 is in the public domain otherwise than by the Customers breach;

9.1.1.2 It already had its possession prior to obtaining the information directly or indirectly from the Supplier; or

9.1.1.3 A third party subsequently disclosed to the Customer free of restrictions on disclosure and use. This clause shall survive three (3) years from when the Customer acquired that confidential information from the Supplier.

9.2 The Customer may disclose confidential information if required to do so by law, regulation or rules of a securities exchange or other regulatory authority, but only to the extent of the relevant requirement. The Customer shall promptly inform the Supplier of the requirement and will co-operate with the Supplier in the disclosure.

9.3 The use of any information, including Calling Line Identification, may be subject to (and therefore the Customer shall comply with) the Data Protection Act 1998, EU Data Protection Directives and The Telecommunications (Data Protection and Privacy) Regulations 1999. The Supplier reserves the right to withhold Calling Line Identification if it believes that the Customer has failed to comply with this clause or the Supplier receives a complaint from any relevant authority.

9.4 The Customer hereby consents to BT disclosing to the Supplier any information relating to the transfer or removal, of BT's retail products and services that exist on the Exchange Line as at the time of transfer of the service from BT to the Supplier.

10. Ownership

All IPR relating to the subject matter of this agreement shall vest in, and ownership of the Supplier's equipment and the system (including any works performed by the Supplier to connect the site to the system) shall remain with the Supplier or its licensors, as appropriate. The Customer acknowledges that it shall have no licence, right, title or interest in or to any IPR of the Supplier or its licensors or the Suppliers equipment or the system, except as expressly set out in this agreement. This clause shall survive the termination or expiry of the agreement.

11. Circumstances Beyond Reasonable Control

11.1 Neither party shall be liable for any delay in performing its obligation under this agreement caused by circumstances beyond its reasonable control. These are circumstances such as, but not limited to, Acts of God, insurrection or civil disorder or military operations, riotous or local insurgency, acts or omissions of Government or other competent authority or regulatory authority, fire, flood, lightning or other weather of exceptional severity, subsidence, explosion or industrial disputes. This clause does not apply to the Customer's obligation to pay. 11.2 If either party is affected by circumstances beyond its reasonable control, it shall notify the other party and shall use reasonable endeavours to overcome the effects. If those effects continue for more than three (3) months, the parties shall enter into a discussion to agree, in good faith, the best way forward.

12. Notices

12.1 Notices must be written and delivered by hand or first class prepaid post. The address for service on the Supplier (subject to any change notified by the Supplier) is: Midshire Business Systems Communications Limited (Company number 4351890) whose registered office is 95-97 Cato Street, Nechells, Birmingham, B7 4TS. The address for service on the Customer is as set out in the most recent invoice.

12.2 A notice will be deemed served as follows:

12.2.1 On hand delivery, except where this is outside a Working Day, in which case the next Working Day;

12.2.2 Two Working Days after posting (proof that the envelope containing the notice was properly addressed, prepaid and posted and that it has not been returned to the sender shall be proof of posting).

13. General

13.1 Headings in this agreement shall not affect interpretation.

13.2 A delay in enforcing rights under this agreement shall not be a waiver, as any waiver must be expressly granted in writing.

13.3 The unenforceability or invalidity of any part of this agreement shall not affect the enforceability or validity of the remainder of it.

13.4 The termination or expiry of this agreement shall be without prejudice to the rights of either party, which have accrued prior to termination or expiry. Clauses that are expressed to survive or which are by implication intended to survive termination or expiry of this agreement shall so survive.

13.5 This agreement contains the entire agreement and supersedes all other agreements and understandings between the parties with respect to its subject matter. Any terms proposed by the Customer that are not written in these terms and conditions shall be invalid. Subject to clause 8.4, each party acknowledges that, in entering into this agreement, it does not do so on the basis of, and does not rely on, any representation, warranty or other provision except as expressly written in this agreement, and that its only remedy can be for breach of contract.

13.6 Nothing, in this agreement shall create, or be deemed to create, a partnership or relationship of principle and agent or employer and employee between the parties.

13.7 This agreement is not intended to be for the benefit of and shall not be exercisable by, any third party under the Contracts (Right of Third Parties) Act 1999 or otherwise and neither party can declare itself trustee of the rights under it for the benefit of any third party.

13.8 The Supplier may change this Agreement at any time without requiring the agreement of the Customer to the extent that the Supplier's contract with BT relating to the services changed.

13.9 The Supplier may transfer or assign all or part of its its rights and obligations to another party, if we do so we will inform you.

13.10 The Customer may assign all or part of its its rights and obligations to another party, if we do so we will inform you.

13.11 We reserve the right to appoint the Supplier of the Local Loop at our discretion.

13.12 All subsequent Orders placed with the Supplier are subject to these terms and conditions, even in the event of this Order not being signed by the Customer.

13.13 English law shall govern the validity, construction and performance of this agreement and the parties submit to the exclusive jurisdiction of the English courts and in particular Birmingham County Court and/or Birmingham District Registry.