

**Summary of the terms and conditions for 2 Circles services**  
**Important Notice: Please read before ordering or connecting to any 2 Circles Service**

This is a summary of our terms for Services provided by 2 Circles Communications Limited (registered in England with number 03843488) ("**2 Circles**"). These terms and conditions are effective from 21<sup>st</sup> November 2018.

**IMPORTANT!**

**Please read our Privacy Notice at [www.2circles.com](http://www.2circles.com).**

If you ordered any Service (as defined below) from us over the internet or by telephone you have a statutory right to cancel the Contract (as defined below) after concluding your Contract with us. Details of how to cancel are set out in our Code of Practice available on our Website or on request from Customer Services on 03456 200 200 between the hours of 9:00am and 5:30pm Monday to Friday excluding bank holidays in England. If we have supplied you with any equipment without charge (for example a mobile phone or router) or if you have purchased any equipment from us that you wish to return, you must return the equipment to us undamaged and in its original packaging, together with your proof of purchase (if not free of charge), by sending it special delivery to 2 Circles Communications, Customer Services, Ver House, 23 - 25 High Street, Redbourn, Hertfordshire, AL3 7LE. If applicable (and subject to clause 7.5 of our terms) we will issue you with a refund or credit for the purchase price of the equipment within twenty-eight (28) days of receipt. There will be no refund or credit for equipment supplied free of charge. We will not refund the cost of returning equipment to us unless it is found to be faulty. Please note that if you do cancel your Contract and do not return any equipment you have received, we shall be entitled to charge you for that equipment. We will also be entitled to charge you for the cost of any Services provided to you before you cancel your Contract. This does not affect your statutory rights.

If you are transferring fixed line services from another provider to our Fixed Line Services as a Domestic or Small Business Customer (as defined below), under the industry-agreed process you have a right to cancel the Contract (as defined below) for those fixed line services without charge up to the date the transfer takes place. This right is separate from any legal rights you may have to cancel. You can tell us that you wish to cancel by telephone, email or post.

2 Circles offers various communications services, including fixed line, mobile, broadband, leased lines, VoIP (voice over internet protocol), SIP, website services and assurance services (together the "Services"). A summary of some of the terms and conditions of the Services is set out below. The full terms of your Contract are set out in our terms that follow this summary. Please take the time to read the full terms, which can also be obtained from our website at [www.2Circles.com](http://www.2Circles.com) (the "Website") or telephoning Customer Services on 03456 200 200.

**General** - The words and phrases used in this summary have the same meanings as in clause 1 of our terms. We may require you to provide whatever proofs of your identity and address that we consider reasonably necessary. In certain circumstances we may ask you to provide a security payment before we connect you to the Services. Full details are at clause 8 of our terms.

When you enter a Contract for our Service(s) it will have a minimum term from the Connection Date (a "Committed Period"). Details of the Committed Periods are set out in our terms but the following provisions will generally apply:

- For most Services the Committed Period is 24 months.
- For Domain Names, the Committed Period is 24 months.
- For Website Services there is no minimum period, however if you end the Contract you will be charged an early termination fee.

**Third Party Terms** - For certain Services such as mobile services, you will be subject to the terms and conditions of the applicable third party, such as a mobile network operator.

**Early Termination Charges and other termination charges** - Full details of the Early Termination Charges and other termination charges, and how they are applied, are set out in our terms and our Termination Policy on the Website but can be summarised for Services as follows (except for: Leased Lines, where it is 100% of the remaining Charges due for the Committed Period or Subsequent Contract Period, as the case may be; Enhanced Services, which are charged to the end of the Billing Period in which they are cancelled):

*Termination within Year 1 of the Committed Period:* 80% of the remaining Charges due in respect of the Committed Period (100% for Leased Lines).

*Termination within Year 2 of the Committed Period:* 70% of the remaining Charges due in respect of the Committed Period (100% for Leased Lines).

*Termination after Year 2 of the Committed Period:* 60% of the remaining Charges due in respect of the Committed Period or the Subsequent Contract Period, as the case may be (100% for Leased Lines).

A call spend balancing charge may be also be added to the Early Termination Charge if your total call charges up to the termination date are less than the aggregate minimum monthly expected call spend amount for the same period. We make this charge because the rates that we offer you are based on the minimum monthly expected call spend confirmed by you in the contract document that you sign or agree over the telephone or online.

A charge may be applied if you fail to return Equipment to us upon termination in certain circumstances.

A Broadband Service Cease Charge is payable when a Broadband Service is ceased.

Fixed Line Services Cease Charges are payable when Fixed Line Services are ceased.

If they apply, these charges will be added to your final invoice.

**Suspension** - We also have the right to suspend Services in certain circumstances and you should ensure you are familiar with these circumstances set out at clause 13 of our terms.

**Personal and Traffic Information** - We will use the personal information you give us and/or your traffic data to help us manage your account efficiently and prevent fraud. Occasionally we need to pass information about you to third parties or government agencies. Full details are given in our Privacy Notice available on the Website or by calling Customer Services.

**Resolving Complaints or Disputes** - If you have a complaint or query regarding any aspect of the Service including your bill, please contact our Customer Services team between the hours of 9.00am and 5.30pm Monday to Friday excluding bank holidays in England by calling on 03456 200 200 or by writing to us at 2 Circles Communications, Customer Services, Ver House, 23 - 25 High Street, Redbourn, Hertfordshire, AL3 7LE. Please include both your phone and customer account numbers in any correspondence. If you are not happy with our response you may refer your complaint to the Telecoms Ombudsman at [www.otelo.org.uk](http://www.otelo.org.uk) or on 0845 050 1614.

**Other Important Matters** - We shall be entitled to amend our Charges and will notify you of any changes and any such notification may include sending you notification in writing and making the amended list of Charges available on the Website. If the Charges on your particular Tariff Plan are decreased this will be reflected in your next bill, however, we will not automatically migrate you onto any other lower Tariff we may launch for any of our Services. If you choose to end the Contract, further details are given in clause 10 of our terms. We may terminate your Contract if you: provide incorrect information; fail to pay your bills on time; or are in breach of our terms.

Except for changes to our Charges (dealt with above) we can vary our terms at any time by posting the changes on the Website. We will only do this if we have a valid reason for example changing arrangements with third parties, or changing legal, regulatory or business requirements. If you use the Services after any change, you will be bound by the terms as varied.

**Limitation of Liability** - We limit our liability to you. In summary our liability to you in contract, tort (including negligence) or otherwise in relation to or arising out of the Contract is limited to the amount of the annual Charges in the preceding twelve (12) months relating to the Service giving rise to such claim up to a maximum of £10,000 for all events, claims, losses however arising during the term of the Contract. Neither party is liable to the other for any loss of profits or other economic loss (whether direct or indirect) or any indirect or consequential loss. Full details of these and other exclusions and limitations are at clause 17 of our terms.

**Credit Check and Assessment** - Your application for connection to any Service is subject to a credit check and approval by 2 Circles. We may also credit check you at any time during the term of the Contract. Full details are given in our Privacy Notice on the Website.

**Our Legal Terms** - all legal terms relating to this Summary and our terms are set out on our Website or available by calling Customer Services.

These terms set out the agreement between 2 Circles Communications Ltd (registered in England with number 03843488) whose registered office is at Ver House, 23 – 25 High Street, Redbourn, Hertfordshire, AL3 7LE ("2 Circles" "we"; "our"; "us") and the Customer ("you" "your" "Customer") details of whom are stated in the contract documentation you sign, provide online or over the telephone.

Please read these terms in conjunction with our Privacy Notice, which can be found on Our Website at [www.2circles.com](http://www.2circles.com).

By using Equipment and/or Services (as defined below) you confirm you have read the Code of Practice and that you agree to the following terms and conditions so you should read them carefully.

## 1. Definitions

1.1 In the Contract the following words have the following meanings:

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| "Acceptable Use Limit"           | means rules, limits or restrictions for the use of the Services as may be revised by us from time to time and which is on Our Website.  |
| "Associate(s)"                   | means in relation to a party to the Contract (at the relevant time), any company which is a Subsidiary or a Holding Company or which is a Subsidiary of any such Holding Company from time to time (where 'Subsidiary' and 'Holding Company' have the meanings given in section 1159 and Schedule 6 of the Companies Act 2006).   |
| "Authorisation"                  | means the authorisation to act as a public electronic communications network or service provider under the Legislation.   |
| "Billing Period"                 | means any period for which we will bill you from time to time for the Services.   |
| "Blackberry Device"              | means a Blackberry handset terminal, including any relevant accessories.  |
| "Broadband Plan"                 | means the monthly tariff which you select at the time you order the Broadband Service.  |
| "Broadband Protect Service"      | means the service designed to provide the following enhancements to our standard Service: (a) extended out of hours telephone support (24/7 x 365 days per year); (b) enhanced broadband router management break fix, configuration and delivery, at no additional charge; (c) engineering site visits for the purpose of identifying and attempting to resolve any issue(s) that are preventing the broadband router from establishing an internet connection, up to the value of £250 per annum, at no additional charge. If you are supplied with a group of multiple Lines, the maximum annual value of £250 is transferrable between different Lines in the group. If the maximum annual value has been reached, and a previously addressed fault re-occurs, at our discretion we may resolve it under the terms of this service, at no charge. This service is more particularly described in clauses 3.10.12 to 3.10.13. |
| "Broadband Service"              | means the direct high speed "always on" network access to the internet provided in accordance with the particular type of Broadband Plan chosen by you and supplied to your Premises via the Network at the best available Transmission Speed that we are reasonably able to make available to you according to the Broadband Plan you have selected and which is provided in accordance with the terms of the Contract.  |
| "BT"                             | means British Telecommunications Plc of 81 Newgate Street, London, EC1A 7AJ.  |
| "Broadband Service Cease Charge" | means the charge for ceasing a Broadband Service set out in the termination policy on Our Website.  |
| "Bundle"                         | means the package of Services and Equipment chosen by you details of which are set out on the contract documentation that you sign and "Bundle Equipment" will be construed accordingly.  |
| "Business Continuity Service"    | means the service designed to provide a facility for on-demand diversion of incoming calls to a pre-defined IVR auto-attendant based call forwarding service in the event of failure of the Customer's Lines, telephone system or power. The call forwarding service can forward to one of ten pre-defined numbers and on busy or no answer, can be set to hunt to a pre-defined destination. The diversion may be requested at any time, 24/7 x 365 days per year. This service is more particularly described in clauses 3.10.16 to 3.10.18.  |
| "Call"                           | means, in relation to the Enhanced Services, a signal, message or communication that is silent, spoken or visual on a Channel that provided to you by us under the terms of this Contract.  |
| "Call Data Record"               | means, in relation to the Enhanced Services, a record of Call details including source and destination numbers and Call duration.   |
| "Change in Control"              | means any material change in the exercise, control or holding of the voting shares in you (otherwise than solely for the purposes of a group re-organisation of a solvent group).   |
| "Channel"                        | means an individual analogue or digital Connection which is capable of carrying data or Call traffic.   |
| "Chargeable Event"               | means an event, including fraudulently made calls and engineer visits where no fault is found, which results in additional Charges being passed to you.   |
| "Charges"                        | means the charges payable by you to us for the Installation Services and/or provision of the Services as set out in the Contract or any revised changes notified to you in accordance with clauses 2.4, 7.1.2 or 7.1.3, together with all applicable taxes and any interest due in accordance with clause 7. Full details can be obtained by contacting Customer Services.  |
| "Charges Policy"                 | means the policy stated from time to time on Our Website.   |
| "Charges Review"                 | means a review which subject to clause 2.4 you can request us to carry out on the Charges payable by you for the Services at any time after the third month following the Start Date.   |
| "CLI"                            | means caller line identity services that identify the originating number of an outgoing call.   |
| "Code of Practice"               | means the 2 Circles code of practice available on Our Website or by contacting Customer Services.   |
| "Committed Period"               | means, in respect of each Service (except Website Services), the minimum period of twenty-four (24) calendar months (unless otherwise stated on the contract documentation you sign, agree over the telephone or online) for which a Contract for each Service will run commencing on the Connection Date. Website Services have no Committed Period.   |
| "Connection(s)"                  | means the successful connection of a call line identity or broadband connection to the Network and "Connected" will be construed accordingly.   |
| "Connection Charge"              | means the sum to be charged for connection to the Services as notified to you in the Price List.  |
| "Connection Date"                | means the date of the connection of the Services to the relevant Network.   |
| "Contract"                       | means the terms and conditions in this document, the Other Legal Terms, together with the details set out in the contract document that you sign or agree over the telephone or online.   |
| "CPE"                            | means the equipment located at your premises and which is connected with a Leased Line.   |
| "Credit Limit"                   | means a monthly financial limit applied for Charges incurred under the Contract.  |
| "Customer Services"              | means the customer services facility provided by us for you to contact by phone or email details of which are set out on Our Website. All calls may be monitored and recorded for training and security purposes.   |
| "Data Processing Annex"          | means the section of this Contract headed "Data Processing Annex" and which may be updated by us from time to time by us posting an update on Our Website at <a href="http://www.2circles.com">www.2circles.com</a> .   |
| "Data Protection Legislation"    | means, up to but excluding 25 May 2018, the Data Protection Act 1998; thereafter (i) unless and until the GDPR is no longer directly applicable in the UK, the GDPR and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998.  |

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| <b>"Denial of Service Attacks"</b>                      | means any attacks to the Network on which the Broadband Service is provided or any other third party's network, the purpose of which are to attempt to prevent legitimate users from using or enjoying the benefit of the Broadband Service or any other similar service (as the case may be).   |
| <b>"Domain Name"</b>                                    | means such domain name as we may allocate to you such allocation being subject to separate terms and conditions details of which can be found on Our Website or by contacting Customer Services.   |
| <b>"Domain Name Price"</b>                              | means the retail price from time to time for a Domain Name.  |
| <b>"Domain Period"</b>                                  | means the period of twenty four (24) months from the date of allocation of a Domain Name.  |
| <b>"Domestic or Small Business Customer"</b>            | means a customer of ours who is neither a communications provider nor a customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise).  |
| <b>"Early Termination Charges"</b>                      | means the charges for early termination set out in the termination policy on Our Website.  |
| <b>"EFM"</b>  | means ethernet in the first mile, which is delivered using multiple standard copper telephone lines either in a bundle of two or four lines to build a single service.   |
| <b>"Enhanced Service(s)"</b>                            | means any or all of the Voice Safe Service, Line Protect Service, Broadband Protect Service, Site Assurance Service, Business Continuity Service, and/or Network Insight Service.  |
| <b>"Ethernet"</b>                                       | means an end-to-end fibre optic connection.  |
| <b>"EoFTTC"</b>   | means a connection delivered by a combination of a standard copper telephone line to the nearest street cabinet and a shared fibre optic circuit from the cabinet to the exchange.   |
| <b>"Equipment"</b>                                      | means Handsets and any other communications or other equipment recommended and approved by us and/or your Third Party Operator as an essential part of providing the Services (excluding SIM Cards) (as applicable). This may include (without limitation) modem, router cables. It does not include leads, batteries or other accessories or equipment you might purchase from any supplier we recommend or any alternative supplier. This other equipment is " <b>Additional Equipment</b> ".  |
| <b>"Excess Construction Charges"</b>                    | has the meaning set out in clause 3.7.27.  |
| <b>"Fixed Line Services"</b>                            | means the fixed line telephony services provided to you by us under the terms of the Contract enabling you to make and receive calls over the Network, including any line extras (such as call divert) that we agree to provide to you.  |
| <b>"Fixed Line Services Cease Charges"</b>              | means the charges for ceasing a Fixed Line Service set out in the termination policy on Our Website.   |
| <b>"GDPR"</b>   | means the General Data Protection Regulation ((EU) 2016/679).  |
| <b>"GSM Gateway"</b>                                    | means a device containing one or more subscriber identity modules for one or more networks, which enable calls from fixed phones to networks to be routed directly via a GSM link into the relevant Network. GSM is the globally accepted standard for second generation digital cellular communication.   |
| <b>"Handsets"</b>                                       | means any mobile device or Blackberry Device supplied to you by us under this Contract excluding the SIM Card. It does not include any mobile device acquired from someone else and used for obtaining the Mobile Service from us by obtaining a SIM Card only. This is an " <b>Existing Handset</b> ".  |
| <b>"Installation Charges"</b>                           | means the charges incurred or imposed as a result of or arising from the installation of the Services or Equipment by 2 Circles or our approved Third Party Operator at your Premises.   |
| <b>"Installation Services"</b>                          | means the services set out at clause 3.8 as may be required to install any Equipment or Service.   |
| <b>"Leased Line"</b>                                    | means a dedicated, fixed-bandwidth, symmetrical data connection, utilising either Ethernet, EFM, EoFTTC, or Private Line.  |
| <b>"Leased Line Pre-connection Cancellation Charge"</b> | has the meaning set out in clause 3.7.30.  |
| <b>"Legislation"</b>                                    | means any applicable legislation, authorisations, permissions, rules, regulations, orders and guidelines relating to the provision or marketing or use of the Services and includes without limitation the Communications Act 2003, the PhonepayPlus Code (formerly known as the ICSTIS Code) and/or any directives or other requirements issued by OFCOM from time to time.   |
| <b>"Line"</b>   | means, in relation to the Enhanced Services, a connection to an exchange, which is capable of carrying voice traffic and/or data traffic that may be one of a single analogue line, a Channel in a multi-line group, an ISDN line comprising two digital Channels, an ISDN2 line comprising up to eight digital Channels, an ISDN30 line comprising up to thirty digital Channels, a line provisioned via VoIP Service, or a line provisioned via SIP Service.   |
| <b>"Line Protect Service"</b>                           | means the service designed to minimise the delay between a fault being reported by you and an engineer attending your premises, by allowing us to instruct an engineer earlier than would otherwise be the case if we were to first take steps to identify the underlying cause of the fault in order to minimise the risk of the fault being a non-Network fault and an engineering call-out charge being applied. Without this service, we will typically need to spend more time analysing a problem before sending out an engineer, which if the problem is in the Network, adds a delay to the resolution. The service helps to reduce the delay by covering the cost to you of any call-out Charge if the problem is not within the Network and enables us to make the decision to send an engineer more quickly, which results in faster resolution times if the problem is within the Network. The service includes extended out of hours telephone support, 24/7 x 365 days per year. This service is more particularly described in clauses 3.10.8 to 3.10.11. |
| <b>"Mobile Service"</b>                                 | means the mobile service provided to you under the terms of the Contract enabling you to make and receive calls using a Handset over the Network and any related Services.   |
| <b>"Network"</b>  | means the electronic communications networks over which we provide the Services.   |
| <b>"Network Insight Service"</b>                        | means the service designed to provide a set of Call-handling performance reports on a monthly basis, including Call volumes, Call volume / time profiles, time to answer, abandoned / missed Calls. The reports are issued by email, and can be provided in one of a number of formats. This service is more particularly described in clauses 3.10.19 to 3.10.20.   |
| <b>"OFCOM"</b>  | means Office of Communications.  |
| <b>"Other Legal Terms"</b>                              | means the other terms and conditions that apply to the Equipment or Services and which are published on Our Website. If there is ever any inconsistency between the Other Legal Terms and the terms in this document, the Other Legal Terms will apply.  |
| <b>"Our Website"</b>                                    | means the website located at <a href="http://www.2circles.com">www.2circles.com</a> as may be amended.   |
| <b>"Premises"</b>                                       | means the mainland UK premises that we agree with you where we will provide you with the Services.   |
| <b>"Presentation Number"</b>                            | means pre-set numbers that are automatically sent out every time an outgoing call is made.   |
| <b>"Presentation Number Services"</b>                   | means the provision to you of services allowing you to use Presentation Numbers.   |
| <b>"Price List"</b>                                     | means a list of our current prices including (but not limited to) details of Connection Charges, charges for monthly access and related services and calls which is available on Our Website.  |
| <b>"Privacy Notice"</b>                                 | means our privacy notice from time to time in force, the latest version of which can be found on Our Website at <a href="http://www.2circles.com">www.2circles.com</a> .   |
| <b>"Private Line"</b>                                   | means a point-to-point connection that enables data to be transferred between two premises.  |
| <b>"RPI Change"</b>                                     | means an increase or decrease as described in clause 7.1.3.  |
| <b>"RPI Rate"</b>                                       | means the "RPI Percentage change over 12 months: monthly rate" announced by the Office for National Statistics announced in the February preceding an RPI Change.  |

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| <b>"Secondary Backup"</b>           | means a secondary connection which facilitates the remote management and monitoring of the CPE and which can be used as a limited failover service in the event of a failure of the Leased Line.   |
| <b>"Separate Equipment"</b>         | means any equipment that you order from us, and which we agree to supply to you, other than Equipment.   |
| <b>"Service Credits"</b>            | means the credits due, if any, from us to you in accordance with clause 4.   |
| <b>"Service Failures"</b>           | means any failure, error or defect in the provision of the Services by us but excludes failures, errors or defects arising from, caused by or contributed to by your acts or omissions or third parties acting on your behalf including other providers of communications equipment or services, computers or other equipment or services including internet services or any failure, error or defect arising as a result of causes beyond our reasonable control. |
| <b>"Service Level"</b>              | means in relation to a Service the performance standard, if any, set out in the Contract.  |
| <b>"Services"</b>                   | means one or more of the services and Equipment that you request in writing or by telephone or online from us and any additional services that we agree to provide to you after the Start Date and <b>"Service"</b> will be construed accordingly.   |
| <b>"SIM Card"</b>                   | means the card provided by the Third Party Operator which enables use of the Mobile Service when inserted in a Handset.  |
| <b>"SIP Service"</b>                | means the facility to make and receive voice calls using a suitably enabled broadband line in the United Kingdom and any related services that we agree to provide to you under the Contract. We provide the SIP trunk (the connection between your PBX and the public telephone network) via your broadband line.   |
| <b>"Site Assurance Service"</b>     | means the service designed for Customers who have purchased ISDN30 Lines, which provides the facility for on-demand diversion of incoming Calls to a pre-defined alternative number if a Customer's Premises becomes unavailable. The diversion may be requested at any time, 24/7 x 365 days per year. This service is more particularly described in clauses 3.10.14 to 3.10.15.   |
| <b>"Software"</b>                   | means the software provided by us to you for the purposes of enabling you to use the Services including all associated documentation.  |
| <b>"Start Date"</b>                 | means either the date that you sign the contract documentation or, if you have ordered the Services over the telephone or via the internet, the date upon which you agree to the terms of the Contract.  |
| <b>"Subsequent Contract Period"</b> | means successive periods each of twelve (12) calendar months beginning on the expiry of the Committed Period.  |
| <b>"Telecommunications Circuit"</b> | means a circuit that allows the transmission of TCP/IP data.   |
| <b>"Term"</b>                       | means the Committed Period and each Subsequent Contract Period.  |
| <b>"Third Party Operator"</b>       | means the electronic communications network or services provider through which we may provide the Services.  |
| <b>"Third-Party Processor List"</b> | means a list of the Third-Party Processors, which is available at <a href="http://www.2circles.com/legal">www.2circles.com/legal</a> .   |
| <b>"Third-Party Processors"</b>     | means our third-party processors (which includes third-party processors who may process Personal Data outside of the European Economic Area), as detailed on the Third-Party Processor List.   |
| <b>"Toll Fraud"</b>                 | means a crime where a third party obtains telecommunications services illegally, including but not limited to breaching network security and accessing private branch exchange services, VoIP Service or SIP Service.  |
| <b>"Transmission Speed"</b>         | means either the rate in Kbps or Mbps that data is transferred between the Equipment and the Broadband Service. The Transmission Speed available to you will be affected the operational and technical characteristics of your telephone line, the Network and your chosen Equipment.  |
| <b>"Voice Safe"</b>                 | means the Voice Safe Service in relation to Lines other than those provisions via VoIP Service or SIP Service.   |
| <b>"VoIP Safe"</b>                  | means the Voice Safe Service in relation to Lines provisions via VoIP Service or SIP Service.  |
| <b>"Voice Safe Service"</b>         | means the Voice Safe and VoIP Safe services designed to mitigate the risk and financial effect of Toll Fraud, which includes the pro-active barring of international and premium rate Calls, enhanced monitoring of Call volumes and profiles to identify fraudulent activity, and the offsetting of fraudulent Call costs that are invoiced by us, up to £10,000 per annum, all as more particularly described in clauses 3.10.3 to 3.10.7.                       |
| <b>"VoIP Service"</b>               | means the facility to make and receive voice calls using a suitably enabled broadband line in the United Kingdom and any related services that we agree to provide to you under the Contract. The service is fully hosted by us.   |
| <b>"Website Services"</b>           | means the provision of website hosting services in accordance with the particular type of Website Plan chosen by you.  |
| <b>"Website Plan"</b>               | means the monthly tariff which you select at the time you contract to receive Website Services.  |
| <b>"Year"</b>                       | has the meaning set out in the termination policy on Our Website.  |
| <b>"Your Website"</b>               | means any website provided and which you use in connection with Website Services.  |

## **2. When the Contract Begins and How Long it Lasts**

- 2.1 We will provide you with the Services and the Equipment subject to you complying with the terms of the Contract. Your obligations under the Contract will commence on the Start Date and will continue during the Term. Subject to clause 21.1, our obligations under the Contract will commence from the Connection Date. **If you are a Domestic or Small Business Customer**, the Contract will automatically continue after the end of the Committed Period unless and until terminated under clause 10. **If you are not a Domestic or Small Business Customer**, you must contact us at least thirty (30) days (ninety (90) days for Leased Lines) before the end of the Committed Period or any Subsequent Contract Period if you do not wish your Contract to continue. If we do not hear from you, upon expiry of the Committed Period or the then current Subsequent Contract Period (as the case may be) the Contract will automatically continue for the Subsequent Contract Period unless and until terminated under clause 10.
- 2.2 You also agree that the Other Legal Terms apply to the Services and the Equipment and these are published on Our Website and may be updated from time to time. These Other Legal Terms include by way of example our "charges policy", "acceptable use policy" and "termination policy". These will apply to your use of the Services and the Equipment therefore you should read them carefully. From time to time during the Contract we may also at our discretion make certain promotional offers available to you. If you accept any of these offers, any special conditions relating to such offers will apply in addition to the Contract.
- 2.3 The Connection Date and any other dates given in the Contract regarding our provision of the Services, Installation Services or Equipment to you are estimates and are provided for planning purposes only. We have no liability to you if we do not meet a Connection Date or any other date as time is not of the essence.
- 2.4 Where you request a Charges Review and we agree to amend your Charges, a new Committed Period will be deemed to start from the date upon which the Tariff is amended.

## **3. Receiving our Services**

In order to receive our Services we will need some authorisations from you. There are also some things that you must do and some points for you to note and be aware of. These are set out below:

### **3.1 General**

- 3.1.1 For Fixed Line Services, VoIP Service and SIP Service, calls to international, premium rate and other higher rate numbers are generally not barred and you will be responsible for all Charges in respect of calls to such numbers (you may request that we bar such numbers if you wish to do so). Without prejudice to the foregoing and without us being under any obligation to do so, in light of the risk of fraud, we do from time to time apply bars on calls to certain destinations, based on industry intelligence and our own fraud detection. Consequently, there may be occasions where you are unable to connect to a particular destination as a result of such measures. In such circumstances, please contact us so that we can check whether the bar can be removed (at our discretion and on the basis of you being responsible for the risks of calls being placed to such destinations, including high call Charges).

- 3.1.2 We may select and at any time change any carrier or other service provider for the purposes of providing the Services, and you authorise us to give all notices, nominations and other authorisations that are necessary for us to provide the Services to you.
- 3.1.3 Whilst we provide the Services to you, you authorise us to act on your behalf in all dealings with any Third Party Operator in connection with any matter that enables us to provide or to continue to provide you with the Services.
- 3.1.4 To enable us to perform our obligations under the Contract, you will obtain all requisite licences, consents and permissions and will provide such reasonable assistance and information as we request from time to time.
- 3.1.5 We may take instructions from a person who we think, with good reason, is acting with your permission.

### 3.2 **Equipment**

- 3.2.1 Subject to clause 3.2.2, it is your responsibility to purchase and correctly install the Equipment.
- 3.2.2 If you have chosen a Bundle we will notify you of the Bundle Equipment you will receive and (subject to availability) will provide this to you free of charge provided that you continue to receive the Bundle for the Committed Period. If you downgrade to a different Bundle during the Committed Period we reserve the right to charge the standard charge for that original Bundle Equipment.
- 3.2.3 In respect of all Services, if you receive new Equipment through us, it is provided with the benefit of and subject to the terms applicable to such warranty or guarantee as is given by the manufacturer of the Equipment. Equipment that is not new or is Additional Equipment is provided without any warranty or guarantee whatsoever.
- 3.2.4 If you wish to use Additional Equipment to receive any Services rather than that supplied or recommended by us or a Third Party Operator, we cannot guarantee compatibility with the Services nor will we provide any ongoing support. We will have no liability for a failure to provide the Services resulting from use by you of Additional Equipment. In addition you should note that use of Additional Equipment may result in unexpected Charges that you will have sole responsibility for and we have no liability to you in respect of your use of Additional Equipment. This limit is in addition to clause 17 and subject to clause 17.4.
- 3.2.5 Equipment supplied by us will be at your risk immediately on delivery to your premises (or into custody on your behalf, if sooner) and should be insured accordingly. Delivery will be evidenced by signature by you or an authorised person. The Equipment will be deemed to have been checked and accepted by you on the date of such signature. You must inspect it and inform us of any damaged or missing items within seven (7) days by contacting Customer Services. You are responsible for ensuring that an authorised person is available to accept delivery. We are not responsible for any delay in performing the Services and reserve the right to charge carriage if an authorised signatory is not available, or you refuse to accept delivery of Equipment. We accept no liability for any late delivery or deliveries that are lost in the post.
- 3.2.6 Without prejudice to your rights under clause 11, you may request an exchange or upgrade of any Handset within seven (7) days following delivery subject to (i) return to us at your cost the original Handsets in their original packaging and unused, (ii) payment by you of the costs of delivery and (iii) payment of our standard charge.
- 3.2.7 Equipment will remain our property until paid for in full by you. Until such time as the ownership of the Equipment has passed to you, you will hold it on our behalf and keep it safe, insured and identified as our property and we will be entitled to ask you to return the Equipment. During this time you will notify us immediately of any loss, theft or damage of any Equipment.
- 3.2.8 All SIM Cards supplied to you for use on the Network will at all times remain the property of the Third Party Operator and in the event of termination of the Contract must be returned to your Third Party Operator in good condition. You agree to notify the Third Party Operator immediately of any loss, theft or damage of any SIM Card.
- 3.2.9 If it is necessary for a Third Party Operator to supply you with Equipment in order to access any Service then you agree that such Equipment will remain the sole property of that Third Party Operator and you will comply with all request and instructions of that Third Party Operator in relation to that Equipment.
- 3.2.10 You will comply with any reasonable instructions issued by us or the Third Party Operator which concern your use of the Services or SIM Card including, without limitation, any codes of conduct which apply in relation to the Equipment and Services (as amended from time to time).
- 3.2.11 You will ensure that the Equipment and any other equipment and/or hardware connected to or used with any Services is connected and used in accordance with any applicable instructions, safety or security procedures.

### 3.3 **Fixed Line Services**

- 3.3.1 If you request Fixed Line Services and already receive fixed line services from another provider, your existing fixed line services will continue until the transfer to our Fixed Line Services is complete unless your other provider agrees that it can be done earlier. If you are transferring fixed line services from another provider to our Fixed Line Services as a Domestic or Small Business Customer, under the industry-agreed process you have a right to cancel the Contract for the Fixed Line Services without charge up to the date the transfer takes place. This right is separate from any legal rights you may have to cancel. You can tell us that you wish to cancel by telephone, email or post.
- 3.3.2 It is your responsibility to ensure the compatibility of the Fixed Line Services with any monitored alarm system you may have and you should check this with your monitored alarm system provider. We do not accept any liability in connection with your use of a monitored alarm system with the Services, save as set out at clause 17.5.
- 3.3.3 Certain services which are provided by Third Party Operators may not be compatible with the Fixed Line Services. You should be aware that such services may be automatically removed from your line during set up and may no longer be available to you.
- 3.3.4 If you instruct us, we will register your telephone number on the Telephone Preference Service registry.
- 3.3.5 In response to OFCOM's publication of its "Statement and Notification on Protecting Citizen's and Consumers from Mis-selling of Fixed-Line Telecoms Services", we have produced a Code of Practice to protect your rights in this area and this is available on Our Website.
- 3.3.6 You recognise that the Fixed Line Services may from time to time be adversely affected by local geography, topography and/or atmospheric conditions and other causes of interference and may fail or require maintenance without notice.
- 3.3.7 You acknowledge that you have no right to sell (or to agree to transfer) or dispose of in any way, any telephone number provided to you by us. You further acknowledge that all numbers provided by us are provisional until put into service and, as such, are subject to change. Any use made by you of any such number prior to it being put into service is entirely at your own risk.

### 3.4 **Broadband and Website Services**

- 3.4.1 In order for us to enable you to use the Broadband Service and/or Website Services you agree to comply with the following:
  - a. you must have an existing BT or any other non-cable network telephone line;
  - b. you must have a personal computer of minimum specification;
  - c. you must have compatible cables and extension leads between any communications equipment and telephone socket;
  - d. our provision of the Broadband Service is subject to testing to our satisfaction of your telephone line to ensure that broadband is available in your area and can be activated. If any installation work is needed at your Premises before we are able to provide the Broadband Service, you must arrange this through an authorised third party or us at your own cost; and
  - e. you must cancel any other broadband access service.
- 3.4.2 In certain limited circumstances, we may not be able to set up the Broadband Service and/or Website Services for technical reasons beyond your or our control including (but not limited to) unacceptably slow transmission speeds. If this happens we will notify you as soon as possible and the Contract between us will end. In such circumstances, we will provide you with a full credit or refund for any Charges you have already paid us, as set out in clause 7.5.
- 3.4.3 Upon activation of your Broadband Service you accept that you may experience a temporary loss of your existing line.
- 3.4.4 You will be allocated a username and password in order to access the Broadband Service. You will be responsible for keeping this username and password confidential and agree to take all necessary steps to ensure their confidentiality and that they are not disclosed to any unauthorised third parties. You will inform us if you become aware of or suspect any unauthorised use of your username and password and agree to take all necessary steps (or such steps as may be requested by us) to prevent such use.
- 3.4.5 To ensure that the Broadband Service remain secure, you must not change or attempt to change a username without our written permission.
- 3.4.6 If you move and want to access the Broadband Service at your new address you will need to set up a new account for that location by contacting Customer Services. You will have to provide us with proof of your new address. If you do not, your existing account will not be terminated and you will be liable for any Charges that remain due relating to that account. You will also have to pay an administration fee for setting up a new account when you move and if you have purchased Equipment from us and such Equipment is lost or damaged when you move address you will have to purchase new Equipment from us.
- 3.4.7 When you have moved address, a telephone line test will need to be carried out. If it is not possible to connect you and we are unable (in our sole discretion) to provide you with the same service at the same cost by alternative means, you may terminate the Contract provided: (i) it is no earlier than the date you actually move; (ii) you give us ten (10) days' notice; and (iii) you send us proof of your change of address. Any Charges due in respect of your existing account to the date of cancellation will remain payable. If it is possible to connect you at your new address, we will try to ensure that your connection is at the same Transmission Speed as that at your old address prior to your move. However, if it is not possible, we will connect you at the Transmission Speed we determine is available and possible.
- 3.4.8 As part of the Broadband Service or Website Services you may set up your own Website(s). Domain Names are subject to availability and we cannot guarantee the availability of any specific domain name. The number of e-mail addresses and the amount of e-mail storage and website that we provide to you depends on your Broadband Plan or Website Plan. You agree to ensure that you save your e-mails in the event that your e-mail storage is approaching its limit. Domain Names will be charged at the Domain Price.

- 3.4.9 Where we provide you with one or more e-mail addresses and storage as part of providing the Broadband Service and/or Website Services you acknowledge that such e-mail addresses are not your property and that we are entitled to alter them in our sole discretion. We will only change your e-mail addresses where reasonably necessary after providing you with reasonable notice of such change. The number of e-mail addresses and the amount of e-mail storage that we provide to you will depend on the Broadband Plan/Website Plan you subscribe to.
- 3.4.10 You acknowledge that you have no right to sell (or to agree to transfer) or dispose of in any way, any e-mail addresses or Domain Name provided to you by us. You further acknowledge that all email addresses and Domain Names provided by us are provisional until put into service and, as such, are subject to change. Any use made by you of any such email address or Domain Name prior to it being put into service is entirely at your own risk.
- 3.4.11 If we receive a complaint about Your Website we may suspend it immediately without notifying you beforehand. We may ask you to either agree with the person making the complaint that the material can remain or can be altered or ask you to agree to remove it permanently. However, if we believe that the material on Your Website is sufficiently harmful, unlawful or offensive, is illegal or we receive further complaints about Your Website after we have already issued you with a warning, we may end the Contract without further notice to you. In such circumstances we will be under no obligation to provide you with any refund.
- 3.4.12 You agree that you will enter into any licence or agreement reasonably required by the owner of any intellectual property rights in any software supplied to you for the purpose of accessing the Broadband Service or the Website Services. You also agree that all intellectual property rights in the Broadband Service or the Website Services (including the Equipment and any related software) are and will remain vested in us, our agents, the Equipment manufacturer or their licensors as applicable.
- 3.4.13 You acknowledge that as part of your wish to receive and enjoy the full benefits of the Broadband Service or the Website Service some minor modifications may need to be made to your computer. It is your responsibility to ensure that such modifications do not invalidate the terms of any warranty that you may have concerning your computer. We will not be liable for any claim that your warranty has been invalidated (if applicable) as a result of work carried out by you, us, our agents in order to make your computer operate with the Broadband Service.
- 3.4.14 It is your responsibility to ensure the compatibility of the Broadband Service and Website Services with your personal computer; any hardware, software or any other equipment or services.
- 3.4.15 You recognise that the Broadband Service and Website Services may from time to time be adversely affected by failure of a server or other external causes and may fail or require maintenance without notice. You further acknowledge that we will have no liability for failure of the Broadband Service and Website Services unless and to the extent caused by our negligence or fraudulent misrepresentation.
- 3.5 **Mobile Service**
- 3.5.1 In respect of the Mobile Service and subject to these terms and conditions we will arrange with the Third Party Operator for the connection of the applicable Equipment to the Network and we will use our reasonable endeavours to make the Mobile Service available to you.
- 3.5.2 You acknowledge and agree that you will upon connection of the Mobile Service be subject to the Other Legal Terms and the terms and conditions of the applicable Third Party Operator of that Mobile Service.
- 3.6 **VoIP Service and SIP Service**
- 3.6.1 In order for us to enable you to use the VoIP Service / SIP Service you agree to comply with the following:
- you must have the Broadband Service or a suitable broadband service provided by another broadband provider, in either case with the required bandwidth to support acceptable call quality and with adequate usage limits;
  - you must have compatible cables and extension leads between any communications equipment and telephone socket;
  - our provision of the VoIP Service / SIP Service is subject to testing to our satisfaction that the Broadband Service or the broadband service provided by the relevant broadband provider (as the case may be) will support it. If any installation work is needed at your Premises before we are able to provide the VoIP Service / SIP Service, you must arrange this through an authorised third party or us at your own cost.
  - It is your responsibility to provide, maintain and keep secure against unauthorised use the Equipment necessary to receive and use the VoIP Service / SIP Service, as follows:  
VoIP Service: broadband modem and router, one or more compatible VoIP telephone(s), appropriate power supplies, and all the cabling necessary to connect the telephone(s) to your router.  
SIP Service: broadband modem and router, PBX, one or more compatible telephones, appropriate power supplies, and all necessary cabling to connect the telephone(s) to your PBX and the PBX to your router.
  - In relation to the SIP Service, we are only responsible for the SIP trunk up to the point at which it connects to your PBX. You are responsible for the PBX along with the telephones connected to it.
- 3.6.2 In certain limited circumstances, we may not be able to set up the VoIP Service / SIP Service for technical reasons beyond your or our control including (but not limited to) unacceptably slow transmission speeds. If this happens we will notify you as soon as possible and the Contract between us will end. In such circumstances, we will provide you with a full credit or refund for any Charges you have already paid us, as set out in clause 7.5.
- 3.6.3 If you move and want to access the VoIP Service / SIP Service at your new address you will need to set up a new account for that location by contacting Customer Services. You will have to provide us with proof of your new address. If you do not, your existing account will not be terminated and you will be liable for any Charges that remain due relating to that account. You will also have to pay an administration fee for setting up a new account when you move and if you have purchased Equipment from us and such Equipment is lost or damaged when you move address you will have to purchase new Equipment from us.
- 3.6.4 When you have moved address, a broadband service test and/or VoIP Service test / SIP Service test will need to be carried out. If it is not possible to connect you and we are unable (in our sole discretion) to provide you with the same service at the same cost by alternative means, you may terminate the Contract provided: (i) it is no earlier than the date you actually move; (ii) you give us ten (10) days' notice; and (iii) you send us proof of your change of address. Any Charges due in respect of your existing account to the date of cancellation will remain payable.
- 3.6.5 You agree that you will enter into any licence or agreement reasonably required by the owner of any intellectual property rights in any software supplied to you for the purpose of accessing the VoIP Service / SIP Service. You also agree that all intellectual property rights in the VoIP Service / SIP Service (including the Equipment and any related software) are and will remain vested in us, our agents, the Equipment manufacturer or their licensors as applicable.
- 3.6.6 You acknowledge that as part of your wish to receive and enjoy the full benefits of the VoIP Service / SIP Service some minor modifications may need to be made to your local network. It is your responsibility to ensure that such modifications do not invalidate the terms of any warranty that you may have concerning your equipment. We will not be liable for any claim that your warranty has been invalidated (if applicable) as a result of work carried out by you, us, our agents in order to make your local network operate with the VoIP Service / SIP Service.
- 3.6.7 It is your responsibility to ensure the compatibility of the VoIP Service / SIP Service with your local network, any hardware, software, or any other equipment or services.
- 3.6.8 Whilst we aim to provide a continuous VoIP Service / SIP Service to you, the VoIP Service / SIP Service may impair, or be impaired by, the uploading or downloading of data and/or the making or receiving of simultaneous calls using the same broadband enabled connection, or by other circumstances beyond our reasonable control. In addition to this, you acknowledge that the VoIP Service / SIP Service may be adversely affected from time to time by failure of your local network, a server or other external causes, and may fail or require maintenance without notice. You acknowledge that we will have no liability for failure of the VoIP Service / SIP Service unless and to the extent caused by our negligence or fraudulent misrepresentation.
- 3.6.9 Any order for the VoIP Service / SIP Service which is accepted by us is conditional on you acknowledging that the VoIP Service / SIP Service:
- may not offer all the features or resilience that you may expect from a conventional phone line; and
  - is not a Publicly Available Telephony Service (PATS) and as a result, may sometimes be limited, unavailable or disrupted due to events beyond our control e.g. power disruptions, failures or the quality of the broadband connection,
- and that we shall have no liability to you in respect of these.
- 3.6.10 You acknowledge that the VoIP Service / SIP Service is not intended to be used for calling the 999 service or making other emergency or important calls and that a conventional phone line should be installed for such purposes.
- 3.6.11 You may only access the VoIP Service through the software provided and must not attempt to circumvent any security measures.
- 3.6.12 You accept that occasionally we will provide instructions regarding the VoIP Service / SIP Service. You must follow these instructions.
- 3.6.13 You must ensure that any personal computer, data and other Equipment used in connection with the VoIP Service / SIP Service is secure and protected from any risks (including viruses) that downloading any software may involve, by installing appropriate software.
- 3.6.14 You are responsible for the security and proper use of all usernames and passwords and must take all necessary steps to ensure that they are kept confidential, secure, used properly and not disclosed to or accessed by any unauthorised person.
- 3.6.15 If any Equipment is lost, stolen or likely to be used in an unauthorised manner you will be responsible for any Charges incurred until you have informed us.
- 3.6.16 You are wholly responsible for the safety and security of your VoIP Service / SIP Service account and the Equipment used by you to access the VoIP Service / SIP Service and must put in place such safeguards as are necessary to prevent unauthorised use. You are

- responsible for all use of the usernames and passwords to access the service, whether authorised or not. You agree that we have no responsibility for Charges incurred by you as a result of the unauthorised use of your VoIP Service / SIP Service.
- 3.6.17 You agree to pay all Charges for the VoIP Service / SIP Service calculated using the details recorded by us or the Third Party Operator.
- 3.6.18 You agree to pay all Charges for the VoIP Service / SIP Service upon receipt of our invoice, whether the Service is used by the you or someone else (whether authorised or unauthorised). This includes, but is not limited to, calls made from fraudulent use of your VoIP Service / SIP Service account caused by hacking or any other form of unauthorised intrusion or use.

### 3.7 **Leased Lines**

- 3.7.1 We shall provide the Leased Line at the data transfer speed stated in the contract documentation that you sign, subject to the terms of this Contract.
- 3.7.2 We agree to supply and you agree to purchase the Equipment (if any) specified in the contract documentation that you sign.
- 3.7.3 You agree to install the Equipment on (or prior to) the Connection Date. The Service Level relating to the Leased Line shall not come into effect and we shall have no liability for any failure to deliver the Leased Line under this Contract or the Service Level relating to the Leased Line until the Equipment has been installed and connected to the Telecommunications Circuit by you. We reserve the right to charge you if we need to provide assistance at your Premises.
- 3.7.4 If we are providing you with Equipment, we will configure and deliver it to your Premises. If you are providing your own Equipment, you are responsible for configuring it for use with the Leased Line. In both cases, you are responsible for connecting the Equipment to the Telecommunications Circuit at your Premises.
- 3.7.5 We will use reasonable endeavours to provide the Leased Line and/or Equipment to you within any timescales specified by us or which you have requested and we have agreed to. However, we will not be liable to you for any delay in providing or failure to provide the Leased Line and/or Equipment within any such timescale. Due to factors beyond our control (non-exhaustive examples of which are set out in clause 3.7.9), installations of Leased Lines can be subject to unpredictable and (in some cases) substantial delays, which you accept.
- 3.7.6 We shall not be obliged to provide the Leased Line to you unless and until we have received written confirmation, or such other confirmation as we may require, that all installation work at your Premises is complete.
- 3.7.7 You are responsible for the Charges from the Connection Date.
- 3.7.8 We will allocate a range of internet protocol (IP) addresses for your use for your own equipment on your network for the duration of the Contract. It is your responsibility to connect the Equipment to, and to configure your own equipment on, your own network.
- 3.7.9 All orders for Leased Lines are subject to a survey being carried out to determine the installation costs and timescale, and to ascertain whether any wayleave requirements or infrastructure considerations apply (such as the need for the Leased Line to cross privately owned land, the presence of physical obstructions, such as surrounding buildings, or the lack of availability at the geographically nearest connection node, etc). Whilst we will have provided an installation time estimate prior to you placing your order (typically, 60 to 90 days), this is subject to change following the survey and due to other factors beyond our control, such as (but not limited to) delays in obtaining wayleave agreements from third parties, upgrades to connection nodes, re-routing to alternative connection nodes where the nearest node lacks capacity, etc), and you accept this as an inherent part of the installation process. **You agree that delays in the installation are not grounds to cancel the order without charge and that, if you wish to cancel the order because of such delays or for any other reason other than a notification of Excess Construction Charges (in relation to which clause 3.7.27 applies), you may only do so in accordance with clause 3.7.30 and that the charges stated in clause 3.7.30 will apply, which you agree to pay.**
- 3.7.10 The bandwidth of an individual Leased Line circuit ("Circuit") cannot be downgraded to a bandwidth which is below the Circuit bandwidth that was initially provisioned for that particular Circuit. Where available, Circuit bandwidths can be upgraded at any time during the Contract as follows, subject to the payment of upgrade Charges and revised recurring Charges as notified to you by us from time to time:
- EoFTTC Circuits cannot be upgraded. The best bandwidth possible on that Circuit is delivered automatically.
  - EFM Circuits are available in either 2-pair (10Mb) or 4-pair (20Mb) configurations, so a 2-pair (10Mb) Circuit can be upgraded to a 4-pair (20Mb) Circuit. The bandwidth of an EFM Circuit cannot be downgraded during the Committed Period or Subsequent Contract Period.
  - Private Lines can generally be upgraded at any time, subject to availability.
  - Ethernet Circuits can generally be upgraded at any time. As bandwidths over 100Mb require a new bearer (the availability of which will depend on the capacity of the exchange or node), we will be unable to provide an upgrade to bandwidths over 100Mb if there is no available capacity. If a new bearer is available, the upgrade will be subject to additional Charges and a new Committed Period (see below).
- 3.7.11 Once a Circuit's bandwidth is re-graded, it must remain at the new Circuit bandwidth for a minimum of period of three months before it can be re-graded again. Following a re-grade of a Circuit's bandwidth, the revised Charges will apply for that Circuit from the date upon which it is re-graded. For example, where a Circuit has an initial bandwidth of 4Mb and is re-graded from 4Mb to 6Mb, the minimum period at 6Mb bandwidth is three months, after which it may be re-graded. A Circuit cannot be re-graded to a lower bandwidth during the Committed Period or a Subsequent Contract Period. For example, where a Circuit has an initial bandwidth of 4Mb and is re-graded from 4Mb to 6Mb during the Committed Period, it cannot be re-graded back to 4Mb during the Committed Period.
- 3.7.12 Where the bandwidth of an EFM Circuit or Private Line Circuit is upgraded within the Committed Period or a Subsequent Contract Period, this is subject to payment of the relevant upgrade Charge and new recurring Charges for the increased bandwidth applying for the remainder of the existing Committed Period or Subsequent Contract Period (as the case may be) and thereafter, but there will be no extension of the Committed Period or Subsequent Contract Period. Where the bandwidth of an Ethernet Circuit is upgraded, this is subject to payment of the relevant upgrade Charge and new recurring Charges for the increased bandwidth and is also subject to a new Committed Period of three years, which will apply from the date of that the upgrade is installed.
- 3.7.13 If you move and want to move the Leased Line to your new address you will need to terminate your existing Leased Line in accordance with clause 3.7.14 and order a new Leased Line for your new address, which will be subject to a new Committed Period.
- 3.7.14 Terminations of Leased Lines due to a change of address will be subject to a cancellation charge, which is generally the remaining unamortised installation charge plus three months' recurring Charges. The cancellation charge may vary on a case-by-case basis and the exact charge payable will be confirmed on request, although it will not exceed 100% of the remaining Charges due in respect of the Committed Period or the Subsequent Contract Period (as the case may be).
- 3.7.15 We may be required to carry out additional construction work prior to or during installation of a Telecommunication Circuit (for example because fibre or copper is not present, or buildings entries are required and/or additional equipment is needed). You may be subject to additional charges for such work as per clauses 3.7.26 to 3.7.28 below.
- 3.7.16 We may monitor the Leased Line 24 hours a day, 7 days a week, 365 days a year. Relevant details of this activity are set out in the applicable Service Level.
- 3.7.17 A Secondary Backup connection can be ordered separately as a back-up to a Leased Line and means:
- an available Broadband Service that already serves your Premises; or
  - the number of an available PSTN line on which we can install a secondary connection service at your premises; or
  - such other secondary connection as may be agreed by us from time to time.
- 3.7.18 For the avoidance of doubt, where you have purchased a Private Line, and you opt to have a Secondary Backup, this is required at both ends of the Private Line.
- 3.7.19 A Secondary Backup is for the purposes of failover of the Leased Line only and you are not permitted to use the Secondary Backup as a primary circuit or for any other purpose. For the avoidance of doubt, Secondary Backup is not intended to provide an equivalent service to the Leased Line.
- 3.7.20 You agree that you will be responsible for all use of the Leased Line and (unless, we have agreed to supply it as part of the Equipment) for providing anything necessary for you to use the Leased Line which is in addition to any Equipment or service provided by us under this Contract.
- 3.7.21 Broadband Service Secondary Backup speeds are not guaranteed and are subject to availability, according to BT's advertised coverage of exchanges in the UK. Where Broadband Service is not available as a Secondary Backup, a recommended alternative will be suggested.
- 3.7.22 We only provide service monitoring on Private Line circuits if we supply the Equipment, in which case the PSTN line for service monitoring is subject to availability, according to BT's advertised coverage of exchanges in the UK.
- 3.7.23 You agree that we may, from time to time, suspend and/or change your pass phrase (at our discretion if we reasonably believe that such a step is necessary in the interests of security).
- 3.7.24 Any managed hardware, and/or routers, which you purchase from us, will be tested by us and configured to meet your basic network and internet specifications. If you wish to make alterations to the configuration of such Equipment, you agree to contact us to request such changes. Subject to us confirming that we are able to make the changes you have requested (which may be subject to additional charges) we will make the necessary changes.
- 3.7.25 Any fault with the Leased Line, Secondary Backup and/or the Equipment that you detect must be reported to us as soon as possible.
- 3.7.26 You agree to pay for any and all charges in relation to any additional work required to install a Leased Line or Secondary Backup and the cost of any additional Equipment. Before incurring such costs, we will give you a revised quotation and you will have the option not to proceed with the installation work. If you choose not to proceed with the installation of an individual circuit, no costs will be

- incurred by you in relation to that individual circuit, however, any such cancellation shall not cancel any other circuits that you have ordered from us, or remove your obligation to pay the Charges for such circuits, whether or not such orders have been fulfilled.
- 3.7.27 We may be required to carry out additional installation work prior to or during installation of your Leased Line or Secondary Backup that exceeds the amount of work that we would usually expect to be needed (for example, additional infrastructure may be needed to provide a new or an extended service at your Premises). When such additional installation is required, a survey will be carried out and the applicable charges ("Excess Construction Charges") will be individually assessed. Excess Construction Charges will be due and payable in addition to our standard connection charges, but before incurring such costs, we will give you a revised quotation and you will have the option not to proceed with the installation work. If you choose not to proceed with the installation of an individual circuit, no costs will be incurred by you in relation to that individual circuit, however, any such cancellation shall not cancel any other circuits that you have ordered from us, or remove your obligation to pay the Charges for such circuits, whether or not such orders have been fulfilled.
- 3.7.28 Your Service may also be subject to additional Excess Construction Charges in respect of additional work identified in a pre-installation Premises survey (where applicable you will be notified of the exact amount of the charge in the event that such a charge becomes payable). All additional charges are payable in advance.
- 3.7.29 From the Connection Date, you may only end this Contract in accordance with clauses 10.1 and 12.
- 3.7.30 Prior to the Connection Date, except in the circumstances set out in clause 3.7.27, your cancellation of an order for a Leased Line will be subject to a cancellation charge ("Leased Line Pre-connection Cancellation Charge"), which you agree to pay. The Leased Line Pre-connection Cancellation Charge will be the full quoted installation charge for each Leased Line being cancelled plus 50% of the first year's recurring monthly Charges for each such Leased Line. You agree that the Leased Line Pre-connection Cancellation Charge is a fair assessment of the losses and damage that we will suffer as a result of your cancellation.
- 3.7.31 If you choose our Leased Line installation service (which is an optional chargeable service), the following provisions will apply:
- An engineer will visit your Premises to connect the CPE (the router) to the Leased Line circuit. We shall use our reasonable endeavours to ensure that the Leased Line circuit is working prior to leaving your Premises, but if we are unable to connect the router but we are unable to sign off the Leased Line circuit due to a carrier fault, we will contact you once the fault has been resolved to confirm whether or not the Leased Line circuit is operational. You will not be liable for the Charges until the Leased Line circuit is confirmed as operational.
  - For the avoidance of doubt, the router will be configured to act as a terminating device only (a terminating device is a router that is used to terminate the Leased Line circuit and present connectivity through a single Ethernet port to your network). The installation work will be limited to the installation and configuration of the router to act as a terminating device to the Leased Line.
  - You must ensure that your Premises are prepared for, and ready to accept, the installation and that (without limitation to the foregoing) there are at least three 13 Amp electrical wall sockets, and a spare network point, all available within two metres of the install point.
  - We do not provide any cabling. All cabling must be provided by you at your cost.
- 3.7.32 We may be able to provide additional installation services if you require them. Any such services would be chargeable as an additional service. Please contact us for an assessment of our ability to provide any such services and information about the relevant cost.
- 3.8 **Installation Services**
- 3.8.1 In respect of certain Services it may be necessary to access your Premises prior to the Connection Date in order to install Equipment. We will use our reasonable endeavours to perform and complete the Installation Services, however for technical or operational reasons installation may not be possible. In this event, we may give notice to terminate this Contract or the affected Services or part thereof by notice to you in writing.
- 3.8.2 To enable us to carry out our obligations under this Contract you must permit or procure permission etc for us, or anyone acting on our behalf, to have access to your Premises and any other premises at all reasonable times subject to our having received your prior consent.
- 3.8.3 Our employees or anyone acting on our behalf will observe your reasonable regulations affecting your Premises as previously advised in writing to us.
- 3.8.4 You will provide adequate and suitable supervision of all of our employees and approved sub-contractors at all times as you consider appropriate and reasonable. You will provide a suitable and safe working environment for our employees and anyone acting on our behalf in relation to work carried out at your Premises.
- 3.8.5 In normal circumstances, access to your Premises will only be required during normal working hours (that are not weekends or bank holidays). If we require access at other times, you will permit or procure permission for us or our agents to have access to your Premises and will provide such reasonable assistance and information as we request from time to time. Any request by us to carry out work at other times may be refused by you. Any request by you that we carry out work at other times may be refused by us, but if accepted such work will be charged to you at our then current standard rates.
- 3.8.6 Completion of the Installation Services shall not be confirmation that any Connection of the Services will take place.
- 3.9 **Presentation Numbers**
- 3.9.1 In order for us to provide you with Presentation Number Services you agree to comply with the conditions set out in this clause 3.8
- 3.9.2 Presentation Numbers are available only in conjunction with ISDN 30 lines.
- 3.9.3 You agree that any Presentation Number:
- is either a diallable number or a number that has been received from the network unchanged; and
  - has been allocated to you or to a third party who has given you permission to use it; and
  - is not be a number that connects to a premium rate or revenue sharing number.
- 3.9.4 The following additional provisions apply in relation to the five types of Presentation Numbers available:
- Presentation Number Type 1**  
**What it is.** The number is generated by the network provider. It is stored in the network and applied to an outgoing call at the local exchange by the provider.  
**Your additional obligations.** There is nothing extra that we need you to agree to do to use this service. As the number is applied by network equipment, there is no need for it to be verified each time a call is made. Instead, the level of authenticity will depend on the checks made by a network provider that you are entitled to use a particular Presentation Number.
  - Presentation Number Type 2**  
**What it is.** This identifies a caller's extension number behind a DDI switchboard. Although the number or partial number is generated by the user's own equipment, the network provider is able to check that it falls within the range and length allocated to a particular subscriber. That way, the authenticity of the number can be ensured.  
**Your additional obligations.** There is nothing extra that we need you to agree to do to use this service, as this type of number is considered to carry sufficient authenticity to be classified as a network number and is carried as such by some networks.
  - Presentation Number Type 3**  
**What it is.** This is limited to the far-end breakout scenario where a call's access to the public network may be different to where it was originated (e.g. where there are several transitions between several service providers). The number is generated by the user's equipment but is not capable of being subjected to network verification procedures.  
**Your additional obligations.** You agree and give your undertaking that only authentic calling party numbers will be generated when using this service.
  - Presentation Number Type 4**  
**What it is.** This is a presentation number available for the onward transmission of the originating number where a call breaks into a private network and breaks out again before termination. On the breakout leg, the number is generated by the user's equipment although it will have already been verified in consequence of having been delivered to the private network. To maintain the verification, it's necessary to ensure that the number submitted by the private network is the number that was received. Unlike other types of presentation numbers, Type 4 numbers may not always be 'diallable'; this will depend on the nature of the number received from the public network.  
**Your additional obligations.** You agree and give your undertaking that you will only submit CLIs that have been received from the public network.
  - Presentation Number Type 5**  
**What it is.** These are presentation numbers that identify separate groups of callers behind a private network switch wishing to send different outgoing CLIs. A typical scenario is a call centre making calls on behalf of more than one client. Type 5 presentation numbers are generated by the user's equipment.  
**Your additional obligations.** You agree and give your undertaking that you will only submit CLIs that have been allocated to you or to a third party who has given you permission to use it or them.

### **3.10 Enhanced Services**

- 3.10.1 You are entitled to opt in or opt out of the receipt of each individual Enhanced Service at any time via our customer portal, and our provision or cessation of the relevant Enhanced Service to you, and the commencement or cessation of the relevant Charges, in each



- case as appropriate, shall take effect from the start of the subsequent Billing Period unless otherwise agreed in writing. The applicable Charges for Enhanced Services may vary depending on the type of Line to which they relate (including, but not limited to, as between Voice Safe and VoIP Safe). There are no Early Termination Charges payable in respect of Enhanced Services.
- 3.10.2 If a Chargeable Event occurs we will investigate its circumstances, including your compliance with the terms of this Contract, and will withhold any Charges that may be due and caused by the Chargeable Event, until our investigation is complete. Based on the outcome of our investigation, and at our sole discretion, we may offset some of the Charges or completely waive the Charges as we deem reasonable and appropriate.

#### **Voice Safe Service**

- 3.10.3 Subject to your opt-in and payment of the applicable Charges, we will provide our Voice Safe Service to you.
- 3.10.4 We shall use reasonable endeavours to minimise the risk and effects of Toll Fraud in relation to Channels, VoIP Service and/or SIP Service that we provide to you and/or the Lines we charge you for making Calls on (including those using carrier pre-select or indirect access services), as follows:
- We will by default bar Calls to international numbers that we deem to be high risk. However, in response to a written instruction from you, we will remove the bar;
  - We will bar Calls to premium rate services;
  - We will aim to minimise the effect of any Toll Fraud by:
    - Analysing your Call Data Records once every twenty four hours to identify any suspicious patterns of activity; and
    - Analysing any reports of suspicious activity that are provided to us by our supplier(s); and
    - If, in our reasonable opinion, your Call profile is or becomes indicative of fraudulent activity, we shall be entitled to suspend the affected Service immediately without notice, and shall immediately notify you of the suspension.
- 3.10.5 We do not guarantee that we will be able to detect all forms of fraudulent activity and the provision of this Voice Safe Service does not imply any alteration to your obligations under clause 5.4 or clauses 3.6.11 to 3.6.18 (inclusive) or any other provisions of this Contract.
- 3.10.6 Subject to the conditions set out in this clause 3.10.6, and in response to a claim made by you ("**Claim**"), we shall, subject to the provisions of clause 3.10.2, offset any Call Charges that have arisen due to fraudulently made Calls, by way of an invoice credit and up to a maximum amount of £10,000 (including VAT), provided that:
- All Claims must be related to Channels that are validly covered by the Voice Safe Service;
  - All Claims must be supported by a valid crime reference number that relates directly to the incidence of Toll Fraud in subject;
  - We will not accept Claims for Toll Fraud that have resulted in Calls generated to numbers belonging to you;
  - We will not accept Claims for less than £150 (excluding VAT);
  - The maximum amount that we will offset in any one Year is £10,000 (including VAT) and for the purposes of this sub-clause the effective date of any Claim shall be the date of the occurrence of the Chargeable Event to which the Claim relates;
  - For the avoidance of doubt, we are not liable for Toll Fraud costs, unless such results directly from our negligence; and
  - The issue by us of an invoice credit in response to a Claim under the terms of this service does not imply any liability for Toll Fraud costs on our behalf.
- 3.10.7 The Charges for the Voice Safe Service are based on the total number of Channels for which we charge you for making Calls (including those using carrier pre-select or indirect access services), and the rate which is set out in our Price List. Payment of the Charges by you shall be made in accordance with Clause 7 of this Contract.

#### **Line Protect Service**

- 3.10.8 Subject to your opt-in and payment of the applicable Charges, we will provide our Line Protect Service to you.
- 3.10.9 If an engineer is called out to your Premises to investigate a fault on a Line and no fault is found in our Network, a call out charge would be payable under the terms of clause 7.1.11 of this Contract. Under the terms of our Line Protect Service we will waive the cost of call out Charge.
- 3.10.10 The waiver provided by the Line Protect Service is exclusive to the situation in which an engineer is called out to investigate a fault with the Services and identifies that the fault does not lie in our Network, and expressly does not include the waiver of Charges that arise from:
- Missed appointments where our engineer has attended your Premises and was not able to gain access for any reason beyond the engineer's reasonable control;
  - Installation of new services or changes to existing services;
  - Faults with the Broadband Services;
  - Malicious or accidental damage caused to our Network by the you or any third party; or
  - The upgrade of the hours of cover of our help desk to 24/7 x 365 days per year, which allows a support request to be placed at any time, but which does not affect any pre-existing Service Level for the fixing of Service Failures or any additional Charges for expediting to a faster response time than currently applies to your Line.
- 3.10.11 The Charges for the Line Protect Service are based on the total number of Channels for which we charge you and the rate which is set out in our Price List. Payment of the Charges by you shall be made in accordance with Clause 7 of this Contract.

#### **Broadband Protect Service**

- 3.10.12 Subject to your opt-in and payment of the applicable Charges, we will provide our Broadband Protect Service to you:
- The upgrade of the hours of cover of our help desk to 24/7 x 365 days per year, which allows a support request to be placed at any time, but which does not affect any pre-existing Service Level for the fixing of Service Failures or any additional Charges for expediting to a faster response time than currently applies to your Line.
  - The upgrade of your service to an enhanced managed router service, which will allow proactive monitoring and repair of your router should it become faulty. If we did not provide you with the router which has become faulty, we shall be entitled to replace it with a router of our choice until such time that we have re-established a working internet connection;
  - Engineering visits to your Premises for the sole purpose of identifying and attempting to resolve any issue(s) that are preventing the broadband router from establishing an internet Connection, at no charge to you, up-to a maximum value of £250 (excluding VAT) per annum; and
  - If we supply you with a group of multiple Connections, the maximum value of £250 (excluding VAT) shall be transferrable between any Connections in the group (if the maximum annual value has been reached, and a previously addressed fault re-occurs, at our discretion we may choose to resolve it under the terms of this service, at no charge).
- 3.10.13 The Charges for the Broadband Protect Service are based on the total number broadband Connections that we supply to you and the rate which is set out in our Price List. Payment of the Charges by you shall be made in accordance with Clause 7 of this Contract.

#### **Site Assurance Service**

- 3.10.14 Subject to your opt-in and payment of the applicable Charges and our supply to you of ISDN30 Lines, we will provide our Site Assurance Service:
- On-demand diversion of incoming calls to a pre-defined alternative number in the event that one of your Premises becomes unavailable;
  - You can request that the diversion be effected at any time, 24/7 x 365 days per year;
  - You can request a change to the pre-defined number at any time except when the diversion is in operation.
- 3.10.15 The Charges for the Site Assurance Service are based on the total number of Channels which we supply to you and the rate which is set out in our Price List. Payment of the Charges by you shall be made in accordance with Clause 7 of this Contract.

#### **Business Continuity Service**

- 3.10.16 Subject to your opt-in and payment of the applicable Charges, we will provide our Business Continuity Service to you:
- On-demand diversion of incoming calls to a pre-defined IVR auto-attendant-based call forwarding service in the event of failure of your Lines, telephone system or power ("**Outage**");
  - You can request that the diversion be effected at any time, 24/7 x 365 days per year;
  - You can request changes to the IVR message and Call forwarding numbers at any time except when the diversion is in operation.
  - The maximum number of Lines from which Calls can be forwarded is ten.
  - Whilst Calls can be diverted to any forwarding number, Calls that are diverted to UK or international premium rate numbers, or to any international destinations, or to any numbers other than standard UK local, national or mobile numbers (beginning 01, 02, 03 and 07), will be charged at our standard Charges for such calls. Only Calls diverted to standard (non-premium) UK local, national or mobile numbers (beginning 01, 02, 03 and 07) are included within the Charges for our Business Continuity Service.
- 3.10.17 The Business Continuity Service will be available for the duration of the Outage plus 2 hours, and if you use it outside of such time period we shall be entitled to Charge you for all Call forwarding costs that you have incurred.
- 3.10.18 The Charge for the Business Continuity Service is a fixed fee per call diversion destination number and the rate is set out in our Price List. Payment of the Charges by you shall be made in accordance with Clause 7 of this Contract.

#### **Network Insight Service**

- 3.10.19 Subject to your opt-in and payment of the applicable Charges, we will provide our Network Assurance Service to you:
- The monthly supply of performance reports;
  - The reports can be provided in one of a number of formats, as requested by you;
  - The reports will be sent by email to an email address nominated by you; and

- d. It is your responsibility to ensure that the nominated email address is active.
- 3.10.20 The Charge for the Network Assurance Service is a fixed fee per account and the rate is set out in our Price List. Payment of the Charges by you shall be made in accordance with Clause 7 of this Contract.
- 3.11 **Additional Services**
- 3.11.1 If you would like to receive any additional services, please contact Customer Services for further details and see Our Website for the terms of use under "Other Legal Terms".
- 4. What Level of Service We Give to You: Access to your Premises and assistance from you**
- 4.1 We will provide you with the Services in accordance with the terms of the Contract and with reasonable care and skill provided always that you acknowledge we are not the providers of the Mobile Service.
- 4.2 We do not warrant or guarantee that the Services will be continuously available to you or free from Service Failures or, in the case of Broadband Service, that it will be provided at any particular Transmission Speed, and we shall have no liability to you in respect of these.
- 4.3 Our provision of the Services is dependent upon relevant Third Party Operators and upon them accepting, and then fulfilling accurately and/or in a timely fashion, orders that we place with them in respect of the Services. You expressly release us from liability for any loss or damage caused to you which arises out of, or by virtue of, the failure of any Third Party Operator to accept, or fulfil accurately and/or in a timely fashion, any orders relevant to the Services, regardless of the reason for such failure.
- 4.4 Where you believe that you are experiencing a Service Failure you must immediately report this to us via Customer Services providing sufficient information to enable us to investigate. We will log the time of receipt of all such reports. It is important that you call Customer Services, rather than use any other method of contacting us, because the duration of any Service Failure, for the purposes of calculating any Service Credits which may be due, will be measured from the time your fault report is logged with our Customer Services to the time we can demonstrate that the Service has been restored.
- 4.5 Where the parties agree, as a result of a Service Failure, an applicable Service Level specified in the Contract is not achieved we will, subject to clauses 7.5 and 17.8, pay to you a Service Credit by issuing a credit note to you for a sum equivalent to the amount of the Service Credit. If we spend time investigating fault(s) which are persistently reported by you and conclude that there has been no Service Failure we reserve the right to charge you for all reasonable costs and expenses incurred in investigating the report and you agree to pay the standard charge.
- 4.6 In the event of a Service Failure and in order to restore the affected Service or assist with its restoration, access to your Premises may be needed by us or the relevant Third Party Operator (or third party contractors acting on our or their behalf). Additionally, we or they may need you to provide other assistance. To enable us to restore the affected Service following a Service Failure, you agree promptly to permit or to procure permission (as the case may be) for us, any relevant Third Party Operator and anyone acting on our or their behalf, to access the Premises at all reasonable times and promptly to provide such other assistance as we or they may reasonably require. We will not be liable for any failure to provide the Services or to remedy a Service Failure to the extent caused by your failure to comply with this clause 4.6
- 5. Your Obligations when Using the Services and the Equipment**
- 5.1 **General**
- 5.1.1 The Services are provided for use by you in the course of your business and on the condition that you do not resell or otherwise make the Services or Equipment available to any other party unless authorised in writing by a Director of 2 Circles. You must comply with any instructions we give you about the Services.
- 5.1.2 You agree that you will comply with all applicable laws and regulations when using the Services or the Equipment and that you will procure that all users of the Services and Equipment that we provide to you do so as well.
- 5.1.3 You agree that you will not use or allow others to use any of the Services or the Equipment to do any of the following acts:
- Contravene or cause us to contravene any Legislation;
  - Contravene our Fair Use Policy;
  - Perform any improper, immoral or fraudulent or unlawful activity or use the Services in bad faith or so as to artificially increase or create revenues for electronic communications services supplied by you or any person connected with you;
  - Enable or permit unauthorised access by you or third parties to data stored on our Network;
  - Cause a degradation of service to any of our other customers;
  - Send unsolicited marketing or advertising materials;
  - Deliberately receive, own, use, send, publish or host any material of a pornographic, obscene, defamatory, menacing or offensive nature or material which causes a nuisance, annoyance, an intrusion, harassment of any third party (including Denial of Service Attacks);
  - Directly or indirectly perform or permit any hoax, abusive, racist or indecent act or omission which may result in the infringement of ours or any third party's trade marks, copyright or other intellectual property rights which may now or in the future exist in any part of the world, or misuse of any third party's confidential information or privacy (including without limitation any Data Protection Legislation) by us or you;
  - Cause an overload of our Network or knowingly, recklessly or negligently act or omit to act in such a way that the operation of our Network may be jeopardised or impaired;
  - Injure or damage any persons, property or network or howsoever cause the quality of the Services to be impaired;
  - Cause us to lose or breach any Authorisation;
  - Reverse engineer, decompile or modify the Equipment or SIM Card or authorise any other person to do this;
  - In respect of the Mobile Service, use GSM Gateways or any other device to route third party traffic through the Network;
  - Do anything (or allow anything to be done) which we think in our reasonable opinion may damage or affect the operation of our Network or those of our agents;
  - Intrude, or attempt to intrude, into the equipment, software or systems of any third party or any aspect of the Services.
- 5.1.4 You will indemnify us against any claims, proceedings or threatened proceedings from third parties and against any loss or damage suffered by us arising from any breach of your obligations under the Contract, including this clause 5, and for all costs and expenses reasonably incurred by us in investigating and defending ourselves in relation to any such claims, proceedings or threatened proceedings.
- 5.1.5 You will give us not less than two (2) days' written notice of any advertising, promotion or other campaigns which may significantly increase traffic on our Network.
- 5.1.6 You agree that the details that you provide to us are true, accurate and complete. If you choose to manage your account online, it is a condition of the Contract that you provide us with a current e-mail address for billing purposes and that you maintain this address and advise us promptly of any changes to it. We will have no responsibility for e-mails that are sent by us and not delivered to you for any reason whatsoever.
- 5.1.7 You agree to comply with any instructions that we and our agents may give you from time to time which we or they believe are necessary for health, safety or the quality of other communications services provided to you.
- 5.2 **Broadband Service**
- 5.2.1 To prevent spam from entering and affecting the operation of our systems and the Broadband Service, we may take any reasonable measures or actions necessary to block access to or delivery of any e-mail which appears to be of an unsolicited nature and/or part of a bulk e-mail transmission. We may also use within our systems virus screening technology that may result in the deletion or alteration of e-mail and or e-mail attachments. However, we do not warrant that such technology will be effective against all virus attacks or unsolicited e-mails.
- 5.2.2 You acknowledge that the Broadband Service is provided to other users and we owe a duty to them as a whole to preserve Network integrity and to avoid Network degradation. If, in our reasonable opinion, we believe that your use of the Broadband Service has or may adversely affect such network integrity or may cause network degradation we may change your Transmission Speed or manage your use of our Broadband Service as we see fit in the circumstances. This includes, but is not limited to, any circumstances where you are running an application or program that places excessive bandwidth demands on the Broadband Service for continued periods. We may also impose a limit on your usage capacity at any time at our sole discretion if your usage is affecting or may affect other users' enjoyment of the Broadband Service.
- 5.2.2 You acknowledge that the Transmission Speed of the Broadband Service is affected by many factors beyond our control, including (but not limited to) the distance between your premises and the relevant BT exchange, network traffic, server load. You further acknowledge that we are therefore unable to guarantee that the Broadband Service will be provided at any particular Transmission Speed and that we shall have no liability to you in respect of the Transmission Speed.
- 5.2.3 During the Term you may request a change to your Broadband Plan at any time provided that it is only once in every thirty (30) days. Changes to your Broadband Plan are subject to availability and payment of any applicable Charges (for details please see Our Website). We will use reasonable endeavours to complete the change as soon as possible but cannot guarantee how quickly this will be done. You will be responsible for all Charges on the existing Broadband Plan until the change is completed.
- 5.3 **Website Services**
- 5.3.1 In the event that you wish to port an existing URL which you wish to use in connection with the Website Services, you agree and understand there may be downtime associated with this process and we are not responsible for any costs or consequence of delay

- arising in connection with any such downtime, provided always that we reserve the right to reject such porting request at our sole discretion.
- 5.3.2 We may reject or remove names that we believe may infringe someone else's trade mark or other intellectual property rights or which we consider are offensive, abusive, defamatory or obscene.
- 5.4 **Toll Fraud**
- 5.4.1 You are exclusively responsible for the prevention of Toll Fraud.
- 5.4.2 You shall pay all rental and Call Charges whether you or an unauthorised third party incurs the Charges.
- 5.4.3 You agree to take all reasonable measures to minimise the risk of Toll Fraud, including:
- Regularly changing system passwords;
  - Regularly changing user passwords;
  - Changing passwords as appropriate when employees leave;
  - Not using passwords such as '0000', '1234', default passwords or reversed extension numbers;
  - Mirror any barring options set by us, including:
    - Barring premium-rate numbers wherever practicable;
    - Barring international calls wherever practicable;
  - Implementing network security measures including firewalls, security policies / access restrictions, use of encryption and limiting physical access;
  - Ensuring that any software used in conjunction with the Services is tested for malware including viruses, Trojan horses, logic bombs and worms; and
  - Ensuring that your telephone systems are fully protected against known vulnerabilities.
- 5.4.4 If you use the services of a third party for the supply, maintenance or support of your telephone system, you shall procure an undertaking from the third party supplier that it will comply with the provisions of clause 5.4.3 hereof.
- 5.5.5 We shall not be liable for any losses, costs or damages arising from Toll Fraud.
- 5.5.6 You shall notify us immediately if you become aware of or have reasonable suspicion that a fraud or illegal misuse may have taken place or will take place:
- Upon receipt of your notification, we shall take immediate steps to suspend the relevant part or parts of the Services and ensure that no further traffic is permitted on the relevant Lines;
  - We shall not be liable for any charges or liabilities incurred by you or an unauthorised third party prior to the suspension of the Services.
6. **Allocation and Use of Telephone Numbers**
- 6.1 Where we or a Third Party Operator allocate you any telephone numbers or codes as part of the Services, you acknowledge that you will not acquire any legal, equitable or other rights in relation to any numbers or codes. We may withdraw or change any such numbers or codes and will give you as much notice as possible of this. You may not sell, encumber or transfer or seek to sell, encumber or transfer any numbers or codes allocated by us. You may port numbers to us and, subject to you paying our then current port out administration charge, you may also port numbers to other carriers with whom we have porting agreements. All intellectual property rights or other rights in any numbers or codes allocated by us will at all times, as between ourselves and you, remain vested in us.
- 6.2 We will not be obliged to comply with any porting request unless and until you have fully complied with all your obligations under the Contract (including the payment of all Charges due) which, in the event of cancellation within the Committed Period (if any) will include all Early Termination Charges.
7. **How We Charge and How You Pay**
- 7.1 **All Services**
- 7.1.1 You will pay us the Charges with effect from the date that each Service (or part) is first made available to you. The basis upon how we Charge you for the Services is set out in the Charges Policy. In respect of Installation Charges, these will become payable upon performance of the Installation Services.
- 7.1.2 We may vary our Charges at any time by posting the resulting changes on Our Website or otherwise giving you notice. The revised Charges will apply to all Services provided after the effective date of the notice of change.
- 7.1.3 We will increase or decrease your Charges each April by the RPI Rate (an "RPI Change"). We will publish the RPI Rate on our website as soon as it becomes available.
- 7.1.4 All Charges are stated exclusive of value added tax (VAT) or other applicable taxes. You will be responsible for paying VAT and other applicable taxes which will be included in our invoices at the applicable rate(s).
- 7.1.5 We will provide invoices for the Services and the Equipment monthly or as notified from time to time.
- 7.1.6 You will, subject to clause 7.1.9, pay invoices within fourteen (14) days of the date of the invoice or within seven (7) days in respect of your final invoice. All amounts due under the Contract shall be paid in full without any deduction or withholding. You are not entitled to assert any credit, set-off or counterclaim against us in order to justify withholding payment of any such amount in whole or in part.
- 7.1.7 Payments will be by Direct Debit only. For payments made by any other method we reserve the right to charge you a reasonable administration fee per payment.
- 7.1.8 If a direct debit is dishonoured or cancelled we will be entitled to pass on to you any administration fee which may include third party charges. We will also be entitled to charge you a monthly administration fee for each month in which your direct debit is dishonoured or not reinstated following cancellation. We may charge interest on all overdue amounts from time to time on a daily basis at a rate of 2% above the base rate of the Royal Bank of Scotland plc, to run from the due date of payment until receipt by us of the full amount (including any accrued interest) whether before or after judgement in respect of the overdue amount.
- 7.1.9 If you wish to dispute an invoice you must contact Customer Services within three (3) months of the date of issue of the invoice providing us with (i) nature and reason for dispute, (ii) amount in dispute, (iii) any evidence to support the disputed amount otherwise all invoices will be deemed correct.
- 7.1.10 Where under the Contract a Service Credit or other sum of money becomes payable by us to you, we will be entitled to deduct that sum from Charges due from you to us or any of our Associate Companies whether under this Contract or any other agreement from time to time, as set out in clause 7.5.
- 7.1.11 Your Service may also be subject to additional charges in respect of engineer visits (where applicable, you will be notified of the exact amount of the charge in the event that such a charge becomes payable). We reserve the right to make a charge of up to £250 plus VAT if an appointment is agreed for work at your Premises and either:
- the engineer arrives within the appointment slot but is unable to carry out the work at, or gain access to, your Premises due to your acts, omissions or other circumstances within your control (for example, because entry to your Premises is refused or no access can be gained or where the person who placed the order or their representative is not available to provide detailed work instruction, such as the socket location, or where there is no-one aged 18 or over at the Premises to accompany the engineer, etc); or
  - the engineer can find no fault with the Service in respect of which the visit was arranged.
- 7.2 For Fixed Line Services, the VoIP Service and the Mobile Service, your invoice will include Charges for such calls, SMS messages and MMS messages as have been reported to us by the relevant Third Party Operator in respect of the period covered by the invoice by the date on which we prepare the invoice. From time to time, there may be a delay in the reporting of such calls, SMS messages and MMS messages to us, which may result in additional Charges for a previously invoiced period being included in a subsequent invoice. For this reason, you agree that no invoice can be taken to be a definitive record of the Charges for all calls, SMS messages and MMS messages placed within the period to which it relates and that the omission of Charges for a period from the invoice relating to that period shall not affect your liability to pay such Charges when included in a subsequent invoice. You agree to pay all Charges regardless of when they are invoiced.
- 7.3 In addition for Broadband Service, we will send to you within thirty (30) days of the Start Date, an invoice which will include a pro-rated charge for the remainder of the initial Billing Period in which your account is activated and the charge for the following Billing Period and, if applicable any costs for Equipment you have purchased. Thereafter we will prepare and send to you at the end of every Billing Period an invoice detailing the charge for the following Billing Period.
- 7.4 You agree that the details that you provide to us are true, accurate and complete. If you choose to manage your account online, it is a condition of the Contract that you provide us with a current e-mail address for billing purposes and that you maintain this address and advise us promptly of any changes to it. We will have no responsibility for e-mails that are sent by us and not delivered to you for any reason whatsoever. If you choose not to manage your account online, we reserve the right to charge you a reasonable administration fee per monthly paper bill that we send to you.
- 7.5 **Credits and refunds.** For all Services, if you are entitled to a refund or credit from us, or to a Service Credit (where applicable), we will apply the amount that we owe you as a credit to your account with us, which we will then offset against the invoice(s) that we subsequently issue to you (whether under this Contract or, at our option, any other contract between you and us), until the credit balance is extinguished. If the Contract (and any other contract between you and us) is terminated before the credit balance has been extinguished, we will, following receipt of your request to do so, refund the credit balance to you at the end of the month in which you make such request. For the avoidance of doubt, refunds are only available where the Contract (and any other contract between you and us) has ended and you have requested such refund.

## **8. Credit Limit/Security Payment**

- 8.1 We may perform a credit check on you at any time during the Term. We may at our sole discretion and at any time during the lifetime of the Contract impose a Credit Limit on your account. Any Credit Limit imposed can be amended without prior notice. If you exceed such Credit Limit (i) we may demand immediate payment of the Charges and/or suspend the Services; and (ii) you will still be responsible for all Charges incurred including those exceeding the Credit Limit.
- 8.2 We may at any time require you to provide us with a security deposit as a condition of providing (or continuing to provide) the Services to you. If at any time we require you to pay a security deposit we may (i) suspend provision of the Service(s) until we receive payment of the security deposit. We may hold this deposit until you have paid all sums due to us from you under the Contract. If you owe us money we may set off the deposit against any amount due to us. At our discretion, we may refund your deposit after twelve (12) months of continuous on-time bill payments (rather than apply it as a credit as set out in clause 7.5). Subject to clause 7.5, we will refund any deposit we are still holding on request upon termination of this Contract. No interest is payable on any deposit held by us.

## **9. Changing the Contract**

- 9.1 This clause 9 applies to all changes to the Contract, except changes to Charges under clause 7.1.3 above.
- 9.2 We may vary these terms and conditions at any time by posting the changes on Our Website at least 30 days before such changes come into effect or, where the variation arise due to changes imposed by a Third Party Operator or changes to laws or regulation, as much notice as is reasonably practicable. We will only do this if we have a valid reason, for example to reflect changing arrangements with any Third Party Operator or changing legal, regulatory or business requirements. If any variation of these terms and conditions is likely to cause material detriment to you: (i) we will also give you at least 30 days' prior notice of the variation in writing or, if you have provided us with your email address, by email; and (ii) you will have the right to terminate the Contract in respect of the specific Services affected by the variation (but not any other Services) by giving us 30 days' notice in writing (90 days for Leased Lines) and no Early Termination Charge will be payable by you. You agree that, if you continue to use any Services after any such variation(s) have taken effect, you will be bound by the terms and conditions as varied.
- 9.3 If we increase the Charges pursuant to clause 7.1.2 in relation to one or more individual Services and that increase is to your material detriment, you will have the right to terminate the affected Service with immediate effect by giving us 30 days' written notice (90 days for Leased Lines), provided always that any Charges increases that would not have increased your immediately previous monthly total bill for that specific Service (if the increase(s) had applied for the whole of that month) by more than the greater of: (i) the Retail Price Index (RPI); or (ii) the Consumer Price Index (CPI) annual inflation rate at the date we notify you of the applicable price increase; or (iii) 10%, shall not constitute a material detriment to you under this clause 9.3.

## **10. Ending the Contract**

- 10.1 You may end this Contract or any individual Service:
- 10.1.1 by giving us thirty (30) days' notice (ninety (90) days' notice for Leased Lines), such notice not to expire before the end of the Committed Period or any Subsequent Contract Period;
- 10.1.2 on written notice if we are in material breach of this Contract or
- 10.1.3 on written notice pursuant to clause 9.2 if we change the Contract.

For the purposes of this clause 10.1 "material breach" means where there have been eight (8) Service Failures during any twelve (12) month period which result in us paying to you the maximum amount of Service Credits (to the extent that Service Credits apply in respect of the particular Service you are receiving).

- 10.2 We may end the Contract or any Service with immediate effect by notice in writing if:
- 10.2.1 you fail to pay any sums due to us within fourteen (14) days of receiving written notice from us indicating the sums due and demanding payment;
- 10.2.2 you are in material breach of the Contract which breach is capable of remedy and fail to remedy that breach within thirty (30) days of receiving the notice specifying breach;
- 10.2.3 you are in material breach of the Contract and that breach cannot be remedied;
- 10.2.4 you commit persistent breaches of the Contract;
- 10.2.5 you have any Authorisation under which you have the right to run your communication system and connect it to our system removed, revoked or amended;
- 10.2.6 (if applicable) you have a bankruptcy order made against you, you are convicted of any criminal offence, or (if applicable) you make any voluntary arrangements with your creditors or become subject to an administrative order or go into liquidation, whether voluntary or compulsory (other than for the purposes of reconstruction or amalgamation), or an encumbrancer takes possession of or a receiver is appointed in respect of any of your assets;
- 10.2.7 you do or you allow to be done, anything which in our reasonable opinion will or may have the effect of impairing the operation of a particular Service;
- 10.2.8 you have or propose a Change of Control;
- 10.2.9 if any licence to operate or use the Network under the Legislation is revoked or terminated for any reason;
- 10.2.10 if the operation of the Network is terminated or if the provision of the Mobile Service to us is discontinued for any reason;
- 10.2.11 if we have reason to believe that information supplied to us by you is false or misleading;
- 10.2.12 if at any time BT ceases to provide services to us such that we are unable to continue to provide any Service to you;
- 10.2.13 we cease to be Authorised or if our Authorisation is revoked or modified in any way which has a material impact on our ability to provide the Services or any of them or if we are prohibited from providing or restricted in our entitlement to provide the whole or any part of the Services;
- 10.2.14 if you raise a fault and for reasons beyond our control we are unable to rectify this fault within a reasonable time.
- 10.3 For the purposes of this clause 10.2.2 "material breach" will include any failure by you to pay the Charges (which is not remediable) and any failure to comply with your obligations under this Contract.

## **11. Ending the Contract without Cause**

- 11.1 In addition to our rights under this Contract we may terminate this Contract for any reason by giving you thirty (30) days' notice in writing such notice to expire on or at any time after the Committed Period.
- 11.2 If you end your Contract or any part of it in accordance with Legislation as set out in the Code of Practice, you must notify us and return at your own cost any Equipment unused and in the original packaging and if you do not, you will be responsible for all Charges incurred, the replacement cost of any Equipment and any enforcement costs (including legal fees).

## **12. Consequences of Ending the Contract**

- 12.1 **Early Termination Charge:** Subject to your rights under clause 11.2, in the event that either you seek to end the Contract or a Connection under clause 10.1.1, or if we seek to end the Contract or a Connection under clauses 10.2.1-10.2.4, 10.2.6, 10.2.7- 10.2.8, 10.2.11, before the end of the Committed Period or during a Subsequent Contract Period and notwithstanding any other remedy under the Contract or at law we reserve the right to charge you the Early Termination Charges to your final invoice, which you agree to pay.
- 12.2 You agree that the Early Termination Charges are a fair assessment of the losses and damage that we will suffer as a result of your early termination.
- 12.3 You may terminate your licence to use the Domain Name by giving us thirty (30) days' notice, such notice not to expire before the end of a Domain Period.
- 12.4 Upon termination of the Contract (or any part) any e-mail, data, e-mail addresses and any other features provided as part of the Services will be deleted and we will have no liability to you for this nor will we be able to retrieve this data for you. Under no circumstances will we have any liability for any Equipment purchased by you. You are solely responsible for safeguarding your data by taking backup copies, maintaining a disaster recovery process and through any other means you believe appropriate.
- 12.5 Where you cancel a Service or the Contract as a result of changes made to the Contract or to the Services by us in accordance with clause 9, and where the changes have a material adverse effect on the relevant Services, you will not be liable for any additional charges arising as a direct result of such cancellation, but you will remain liable to pay any Charges due and payable.
- 12.6 If you are a Fixed Line Services, VoIP Service or SIP Service customer and you elect at any time to use another provider for some or all of your calls we may at our sole discretion and without prejudice to any other remedy under the Contract decide to (i) bar your use of indirect access codes, (ii) charge you a higher fee for your use of the Fixed Line Services, VoIP Service and/or SIP Service (as the case may be) or (iii) disconnect the Fixed Line Services, VoIP Service and/or SIP Service (as the case may be) or any part thereof.
- 12.7 In addition to our rights under clause 10, in the event that rental of your telephone line is terminated by BT or, where applicable, any other non-cable network or you change the services on your line such that the Broadband Service is unable to operate normally, the Broadband Service will automatically terminate and you will be liable to us for the Early Termination Charges.
- 12.8 On termination of the Contract:
- 12.8.1 each party will return to the other party or destroy upon request any confidential information which it has in its possession;
- 12.8.2 we will arrange for disconnection of the Equipment and the SIM Card from the Network (if applicable);

- 12.8.3 all outstanding Charges and other sums due to us will be paid by you immediately.
- 12.9 Termination of the Contract howsoever arising will be without prejudice to the rights, duties and liabilities of the parties accrued prior to termination. Those clauses in the Contract which are intended (expressly or by implication) to have effect after termination will remain binding on the parties notwithstanding termination.
- 12.10 If you choose to cancel under clause 11.2 or otherwise (other than for our breach) you must return any Equipment to us within fourteen (14) days of such notice to terminate. If you fail to do so or wish to retain it you may be charged the standard charge for that Equipment.
- 12.11 **Broadband Service Cease Charge:** As a condition of the Broadband Service, you agree that when you end the Broadband Service you will pay a Broadband Service Cease Charge. You will not have to pay this charge in the event you are moving premises within the UK and we are unable to provide the Broadband Service at the new UK address.
- 12.12 **Fixed Line Services Cease Charges:** As a precondition of the Fixed Line Services, you agree that when you end the Fixed Line Services (or any of them), you will pay the applicable Fixed Line Services Cease Charges. You will not have to pay such charges in the event you are moving premises within the UK and we are unable to provide the Fixed Line Services at the new UK address.

### **13. Our Rights to Suspend the Services**

- 13.1 We may suspend the provision of any Services (and in the case of Mobile Service and at our discretion procure disconnection of the SIM Card from the Network) without prejudice to your liability to continue to pay the Monthly Charges without compensation if:
- 13.1.1 you fail to meet any of your obligations under the Contract;
- 13.1.2 technical limitations exist or arise which make the provision of the Services impossible or materially limit the functionality or performance of the Services;
- 13.1.3 necessary for operational reasons such as repairs, upgrades to the Services or regular or emergency maintenance;
- 13.1.4 we are obliged to comply with any contract, instruction or request of a competent governmental regulatory or other authority;
- 13.1.5 if and to the extent that in our opinion your conduct is likely to result in the breach of any law or is otherwise prejudicial to our interests;
- 13.1.6 if the Credit Limit for the Contract is exceeded;
- 13.1.7 if you allow to be done anything which in our reasonable opinion may have the effect of impairing the operation of the Services;
- 13.1.8 during any period in which access to the Network is denied or restricted to us by the Third Party Operator;
- 13.1.9 if we become aware or reasonably suspect or believe that the Equipment or SIM Card is being used for any fraudulent purpose;
- 13.1.10 in the event of notification of loss or theft of the Equipment or SIM Card;
- 13.1.11 if we become aware or reasonably suspect or believe that the Equipment or SIM Card have been reverse engineered, decompiled or modified;
- 13.1.12 at the request of your representative appearing to us to have authority to make such request;
- 13.1.13 if we have reasonable cause to believe that you and any third party is acting in breach of the Acceptable Use Limit or the fair use policy on Our Website;
- 13.1.14 we have a right to terminate the Contract; or
- 13.1.15 your direct debit is dishonoured or cancelled for any reason.
- 13.2 If we in our sole discretion reinstate the Services following suspension you may be liable for an administration fee if suspension is due to your default.
- 13.3 We will, where practical, give you notice of our intention to suspend the Services and, in relation to suspension for the reasons stated in clauses 13.1.2 to 13.1.5 above, will restore the Services as soon as we are reasonably able to do so. If we exercise our right to suspend the Services this will not restrict our rights to terminate the Contract.
- 13.4 If we exercise the right to suspend the Service this will not affect our right to terminate the Contract under clause 10.

### **14. Separate Equipment**

- 14.1 We may from time to time agree to supply you with Separate Equipment that you may wish to order from us, in which event the provisions set out in this clause 14 will apply, in addition to those set out in clauses 14 to 28 (inclusive). In this clause 14, "Order" means your order for the Separate Equipment, as set out in your purchase order form, an order form provided by us, or your written acceptance of our quotation, as the case may be.
- 14.2 The Order constitutes an offer by you to purchase the Separate Equipment in accordance with this clause 14. You are responsible for ensuring that the terms of the Order are complete and accurate.
- 14.3 The Order shall only be deemed to be accepted by us when we issue a written acceptance of the Order (which may be via email).
- 14.4 The Separate Equipment is as set out in the Order.
- 14.5 We reserve the right to amend the specification of the Separate Equipment, if this is altered by the relevant manufacturer.
- 14.6 We will deliver the Separate Equipment to the address set out in your Order, unless otherwise agreed by us. Delivery is completed on the arrival of the Separate Equipment at such address.
- 14.7 Any dates quoted for delivery are approximate only, and the time of delivery is not of the essence. We shall not be liable for any delay in delivery of the Separate Equipment that is caused by an event outside our control (as set out in clause 15) or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Separate Equipment.
- 14.8 If we fail to deliver the Separate Equipment, our liability shall be limited to the costs and expenses incurred by you in obtaining replacement goods of similar description and quality in the cheapest market available, less the price of the Separate Equipment. We shall have no liability for any failure to deliver the Separate Equipment to the extent that such failure is caused by an event outside our control (as set out in clause 15) or your failure to provide us with adequate delivery instructions or any other instructions that are relevant to the supply of the Separate Equipment.
- 14.9 If you fail to accept delivery of the Separate Equipment within three (3) days of us first attempting to deliver the Separate Equipment to you, then, except where such failure or delay is caused by an event outside our control (as set out in clause 15):
- 14.7.1 delivery of the Separate Equipment shall be deemed to have been completed at 9.00 am on the third day after the day on which we first attempted to deliver the Separate Equipment to you; and
- 14.7.2 we shall store the Separate Equipment until delivery takes place, and charge you for all related costs and expenses (including insurance).
- 14.10 If fourteen (14) days after the day on which we first attempted to deliver the Separate Equipment you have not accepted delivery of it (or them), we may resell or otherwise dispose of part or all of the Separate Equipment and, after deducting reasonable storage and selling costs, charge you for any shortfall below the price of the Separate Equipment.
- 14.11 We may deliver the Separate Equipment by instalments, which may be invoiced and, if so, shall be paid for separately. Any delay in delivery or defect in an instalment shall not entitle you to cancel any other instalment.
- 14.12 We warrant that, on delivery, the Separate Equipment shall conform in all material respects with their description and shall function as intended by their manufacturer.
- 14.13 Subject to clause 14.14, if:
- 14.13.1 you give us notice in writing within seven (7) days that some or all of the Separate Equipment do not comply with the warranty set out in clause 14.12;
- 14.13.2 we are given a reasonable opportunity of examining such Separate Equipment; and
- 14.13.4 you (if asked to do so by us) return such Separate Equipment to us at your cost, we shall, at our option, repair or replace the defective Separate Equipment, or credit or refund the price of the defective Separate Equipment in full, as set out in clause 7.5.
- 14.14 We shall not be liable for the failure of the Separate Equipment to comply with the warranty set out in clause 14.12 in any of the following events:
- 14.14.1 you make any further use of such Separate Equipment after giving notice in accordance with clause 14.13;
- 14.14.2 the defect arises because you failed to follow our or the manufacturer's oral or written instructions as to the storage, commissioning, installation, use or maintenance of the Separate Equipment or (if there are none) good industry practice regarding the same;
- 14.14.3 the defect arises as a result of us following any drawing, design or specification supplied by you;
- 14.14.4 you alter or repair such Separate Equipment without our prior written consent;
- 14.14.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal storage or working conditions; or
- 14.14.6 the Separate Equipment differ from their description as a result of changes made by the manufacturer.
- 14.15 Except as provided in clauses 14.12 to 14.14, we shall have no liability to you in respect of any failure of the Separate Equipment to comply with the warranty set out in clause 14.12.
- 14.16 The terms implied by sections 13 to 15 of the Sale of Goods Act 1979 are, to the fullest extent permitted by law, excluded.
- 14.17 This clause 14 and clauses 15 to 28 (inclusive) shall apply to any repaired or replacement Separate Equipment supplied by us.
- 14.18 The risk in the Separate Equipment shall pass to you on completion of delivery.
- 14.19 Title to the Separate Equipment shall not pass to you until we receive payment in full (in cash or cleared funds) for the Separate Equipment (and any other goods that we have supplied to you, in which case title to the Separate Equipment shall pass at the time of payment of all such sums).
- 14.20 Until title to the Separate Equipment has passed to you, you shall:
- 14.20.1 store the Separate Equipment separately from all other goods held by you so that they remain readily identifiable as our property;

- 14.20.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Separate Equipment;
- 14.20.3 maintain the Separate Equipment in satisfactory condition and keep them insured against all risks for their full price from the date of delivery;
- 14.20.4 notify us immediately if you become subject to any of the events listed in clause 10.2; and
- 14.20.5 give us such information relating to the Separate Equipment as we may require from time to time.
- 14.21 If, before title to the Separate Equipment passes to you, you become subject to any of the events listed in clause 10.2, then, without limiting any other right or remedy we may have:
  - 14.21.1 your right to use the Separate Equipment in the ordinary course of your business ceases immediately; and
  - 14.21.2 we may at any time:
    - a. require you to deliver up all Separate Equipment in your possession; and
    - b. if you fail to do so promptly, enter any premises of yours or those of any third party where the Separate Equipment are stored in order to recover them.
- 14.22 The price of the Separate Equipment shall be the price set out in the Order, or, if no price is quoted, the price set out in our published price list in force as at the date of delivery.
- 14.23 We may, by giving you notice at any time before delivery, increase the price of the Separate Equipment to reflect any increase in the cost of the Separate Equipment that is due to:
  - 14.23.1 any factor beyond our control (including price increases imposed by the manufacturer or the supplier of the Separate Equipment to us, foreign exchange fluctuations, increases in taxes and duties, and increases in labour, materials and other relevant costs);
  - 14.23.2 any request by you to change the delivery date(s), delivery address(es), or quantities or types of Separate Equipment ordered; or
  - 14.23.3 any delay caused by any instructions of yours or your failure to give us adequate or accurate information or instructions.
- 14.24 The price of the Separate Equipment:
  - 14.24.1 excludes amounts in respect of value added tax (VAT), which you shall additionally be liable to pay to us at the prevailing rate, subject to the receipt of a valid VAT invoice; and
  - 14.24.2 excludes the costs and charges of packaging, insurance and transport of the Separate Equipment, which shall be invoiced to you.
- 14.25 We may invoice you for the Separate Equipment on or at any time following our acceptance of your Order.
- 14.26 You shall pay the invoice in full and in cleared funds within fourteen (14) days of the date of the invoice. Payment shall be made to the bank account nominated in writing by us. Time of payment is of the essence.
- 14.27 If you fail to make any payment due to us in relation to Separate Equipment by the due date for payment, then you shall pay us interest on the overdue amount at the rate of 2% per annum above Royal Bank of Scotland PLC's 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. You shall pay the interest together with the overdue amount.
- 14.28 You shall pay all amounts due to us in respect of Separate Equipment in full without any set-off, counterclaim, deduction or withholding (except for any deduction or withholding required by law). We may at any time, without limiting any other rights or remedies we may have, set off any amount owing to us by you against any amount payable by us to you.
- 14.29 We shall have the right to cancel your Order without any liability on our part if you become subject to any of the events listed in clause 10.2.

## **15. Events Outside Our Reasonable Control**

Neither party will be liable to the other for any delay in performing or failure to perform any of its obligations under the Contract (other than the obligation to pay the Charges) which occurs as a result of circumstances beyond a party's reasonable control. For the avoidance of doubt, circumstances beyond our reasonable control include but are not limited to act of God, theft, war or riot, civil disobedience, national emergency, strikes and other labour disputes (other than those involving that party's personnel), fire, flood, act of terrorism, power failures, failures of technology, failure of third party suppliers, non-availability of any third party communication services, breakdown of any equipment not supplied by us or acts of government or other competent authority.

## **16. Confidentiality, Data Protection and Data Processing**

### **Confidentiality**

- 16.1 Neither party will disclose to any third party without the prior written consent of the other party any confidential information which is received from the other party as a result of the Contract. Both parties agree that any confidential information received from the other party will only be used for the purposes of providing or receiving Services. These restrictions will not apply to any information which:
  - 16.1.1 is or becomes generally available to the public other than as a result of a breach of an obligation under this clause 16; or
  - 16.1.2 is acquired from a third party who owes no obligation of confidence in respect of the information; or
  - 16.1.3 is or has been independently developed by the recipient.
- 16.2 Notwithstanding clause 16.1, either party will be entitled to disclose the confidential information of the other party to its Associates, a third party to the extent that this is required by any court of competent jurisdiction or by a governmental or regulatory authority, or where there is a legal right, duty or requirement (other than a contractual requirement or duty) to disclose such confidential information.

### **Data Protection and Data Processing**

- 16.3 Clauses 16.3 to 16.9 only apply to the extent that we are processing Personal Data (where Personal Data has the meanings as defined in the Data Protection Legislation) on your behalf. In relation to Personal Data for which we are the Data Controller, we will process such Personal Data in accordance with our Privacy Notice which can be found on our website at [www.2circles.com](http://www.2circles.com).
- 16.4 You and we shall each comply with all applicable requirements of the Data Protection Legislation. Clauses 16.3 to 16.9 are addition to, and does not relieve, remove or replace, your or our obligations under the Data Protection Legislation.
- 16.5 You and we each acknowledge that for the purposes of the Data Protection Legislation, you are the data controller and we are the data processor (where Data Controller and Data Processor have the meanings as defined in the Data Protection Legislation). The Data Processing Annex sets out the scope, nature and purpose of processing by us, the duration of the processing and the types of personal data and categories of Data Subject.
- 16.6 Without prejudice to the generality of clause 16.4, you will ensure that you have all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data (as defined in the Data Protection Legislation) to us for the duration and purposes of the Contract.
- 16.7 Without prejudice to the generality of clause 16.4, we shall, in relation to any Personal Data processed in connection with the performance by us of our obligations under the Contract:
  - 16.7.1 process that Personal Data only on your written instructions unless we are required by the laws of any member of the European Union or by the laws of the European Union applicable to us to process Personal Data ("Applicable Data Processing Laws"). Where we are relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, we shall promptly notify you of this before performing the processing required by the Applicable Data Processing Laws unless those Applicable Data Processing Laws prohibit us from so notifying you;
  - 16.7.2 ensure that we have in place appropriate technical and organisational measures, reviewed and approved by you, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising 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 organisational measures adopted by us);
  - 16.7.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
  - 16.7.4 not transfer any Personal Data outside of the European Economic Area unless your prior written consent has been obtained and the following conditions are fulfilled:
    - a. you or we have provided appropriate safeguards in relation to the transfer;
    - b. the Data Subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
    - c. we comply with our obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
    - d. we comply with reasonable instructions notified to us in advance by you with respect to the processing of the Personal Data;
  - 16.7.5 assist you, at your cost, in responding to any request from a Data Subject and in ensuring compliance with your obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
  - 16.7.6 notify you without undue delay on becoming aware of a Personal Data breach;
  - 16.7.7 at your written direction, delete or return Personal Data and copies thereof to you on termination of the Contract unless required by Applicable Data Processing Law to store the Personal Data; and
  - 16.7.8 maintain complete and accurate records and information to demonstrate our compliance with clauses 16.3 to 16.9 and allow for audits by you or your designated auditor.

- 16.8 You consent to us appointing the Third-Party Processors, to assist us in providing the Services, as third-party processors of Personal Data under the Contract. If we intend to change any of the Third-Party Processors, we will notify you by updating the Third-Party Processor List, thereby giving you the opportunity to object to the change. We confirm that we have entered or (as the case may be) will enter with each Third-Party Processor into a written agreement substantially on that third party's standard terms of business. As between you and us, we shall remain fully liable for all acts or omissions of any Third-Party Processor appointed by it pursuant to this clause 16.8.
- 16.9 Either you or we may, at any time on not less than 30 days' written notice to the other, revise clauses 16.3 to 16.9 by replacing them 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 the Contract).

## **17. Our Liability to You**

- 17.1 If you receive faulty Equipment within twenty eight (28) calendar days (the "Warranty Period") we will at no additional cost to you provide a "like for like" replacement provided that you return the faulty Equipment to us by registered post or special delivery, within fourteen (14) days of redelivery of the replacement Equipment. If you fail to so return the faulty Equipment to us, we reserve the right to charge you the full cost for the replacement Equipment. If the exact same Equipment is not in stock then we will provide you with a substantially similar product. We will have no liability under any this warranty if any Charges are due from you under the Contract. If a claim is made outside the Warranty Period, we may at our sole discretion replace or repair the Equipment subject to your payment of a standard charge.
- 17.2 If you return Equipment to us in accordance with clause 17.1 and have either failed to take reasonable care of the Equipment while it remained in your possession or fail to return all the relevant cables and appropriate ancillary equipment or software supplied to you with the Equipment, we will be entitled to debit your account (using the details that you provided to us) for the full replacement cost of such Equipment. We will not replace any Equipment that becomes faulty as a result of any damage caused to it through your negligence or wilful default and in such circumstances, you will be responsible for the cost of any replacement supplied by us.
- 17.3 Other than as set out above, we will be under no other obligation to exchange, repair or replace the Equipment or provide any refunds. You accept that you are solely responsible for backing up any important data stored on the Equipment prior to the commencement of any repairs and you hereby acknowledge that any such data may be lost during the repair and will be lost if the Equipment is exchanged. We are not liable for this.
- 17.4 In respect of any Equipment, no liability is accepted under any warranty or for any defect resulting from the following: fair wear and tear; rain, water or other liquid damage; accidental or wilful damage; negligence; abnormal working conditions; failure to follow the manufacturer's instructions (whether oral or in writing); or misuse or alteration or repair of the Equipment without the manufacturer's approval. 17.5 We accept liability without limit for death or personal injury arising from our own negligence or for any fraudulent pre-contractual misrepresentation on which you can be shown to have relied or for any liability which can not be excluded or limited by law.
- 17.6 Our liability to pay any Service Credits in accordance with clause 4 will be the maximum extent of our liability and your sole remedy for any Service Failures or in respect of Equipment warranty claims outside the Warranty Period.
- 17.7 Nothing in this agreement limits or excludes our liability:
- 17.7.1 for death or personal injury resulting from negligence; or
- 17.7.2 for any damage or liability incurred by you as a result of fraud or fraudulent misrepresentation by us; or
- 17.7.3 for any liability incurred by you as a result of any breach by us of the condition as to title or the warranty as to quiet possession implied by section 2 of the Supply of Goods and Services Act 1982.
- 17.8 Subject to clauses 17.7 and 17.9:
- 17.8.1 we shall not be liable for:
- loss of profits; or
  - loss of business; or
  - depletion of goodwill and/or similar losses; or
  - loss of anticipated savings; or
  - loss of goods; or
  - loss of contract; or
  - loss of use; or
  - loss of corruption of data or information; or
  - any special, indirect, consequential or pure economic loss, costs, damages, charges or expenses; and
- 17.8.2 our total liability in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance or contemplated performance of this Contract shall be limited to the total amount paid or payable by you under the Contract during the 12 months preceding the event giving rise to such liability, up to a maximum of £10,000. Service Credits paid or credited by us to you will be taken into account for the purposes of calculating the limitation amounts set out in this clause 17.8.
- 17.9 We are not liable to you in contract or tort (including negligence) for any acts or omissions, negligence or default of you or any party other than us, including other providers of communications, computers or other equipment and/or hardware or services including internet services.
- 17.10 Each provision of the Contract excluding or limiting our liability operates separately. If any provision of the Contract is held to be invalid in whole or part such provision will be deemed not to form a part of the Contract. In any event the enforceability of the remainder of the Contract will not be affected.
- 17.11 In respect of the Services and the Equipment you agree that you are solely responsible for the use of the Services and the Equipment and all content, information, data and results obtained from using the Services or the Equipment and that all warranties, terms and conditions, guarantees, undertakings, representations, or any other conditions or guarantees whether express or implied by law, custom or otherwise are excluded to the extent permissible by law.

## **18. Use and Disclosure of Your Personal Information**

- 18.1 **We will use your personal information only as set out in our Privacy Notice (which is available on our website or by calling Customer Services) and the clause below. Please take the time to read our Privacy Notice, as it includes important terms that apply to you.**
- 18.2 You agree that we may use traffic data and personal information about you (if you are an individual), you and your partners (if you are a partnership) or your officers and employees (if you are a limited company or other body corporate) in accordance with our Privacy Notice, as amended from time to time.

## **19. Security and Backup Services**

- 19.1 You are responsible for the security of your use of the Services including, but not limited to, protecting all passwords, backing-up all data, employing appropriate security devices, including virus checking software, and having disaster recovery processes in place.
- 19.2 Where you are or become aware of any matters which you know or ought reasonably be expected to know constitute a threat to the security of the Services you will immediately advise us of such matters.

## **20. Third Party Rights**

A third party which is not a party to the Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise to enforce any term of the Contract.

## **21. Assigning the Contract**

- 21.1 We may assign, sub-contract or otherwise transfer the Contract or any part of it to any third party in our absolute discretion.
- 21.2 You may not assign, sub-licence or otherwise transfer the Contract or any of your rights or obligations arising under it without our written consent.
- 21.3 The Contract may be administered in whole or part by any Associate of ours.

## **22. Entire Contract**

The Contract sets out the whole agreement between you and us for the provision of the Services and the Equipment and supersedes all prior arrangements, understandings and agreements between you and us relating to the subject matter of the Contract.

## **23. Notices**

- 23.1 Notices must be in writing and will be served by hand delivering it or sending it by pre-paid first class post, or registered post, or prepaid recorded delivery or prepaid international recorded airmail addressed to the other party at the address shown on the contract application or any other address as may be notified or e-mail to the address notified by each party to the other.
- 23.2 Any such notice will be deemed to have been received:
- 23.2.1 if hand delivered or sent by prepaid recorded or registered post or international recorded airmail at the time of delivery;
- 23.2.2 if sent by post (other than by recorded or registered post) two (2) days from the date of posting;
- 23.2.3 if sent by airmail (other than prepaid recorded airmail) five (5) days from the date of posting;

- 23.2.4 in the case of e-mail, a copy of the e-mail must also be sent by first class post.
- 23.3 Notices to 2 Circles must be sent to: Head of Customer Experience, 2 Circles Communications Ltd, Ver House, 23 – 25 High Street, Redbourn, Hertfordshire, AL3 7LE, Email: info@2circles.com.

**24. Waiver**

The failure or delay by us in exercising any of our rights, powers or remedies under the Contract will not in any circumstances impair such right, power or remedy nor operate as a waiver of it. The single or partial exercise by us of any right, power or remedy under the Contract will not in any circumstances preclude any other or further exercise of it or the exercise of any other right, power or remedy. Any waiver of a breach of, or default under, any of the terms of the Contract will not be deemed a waiver of any subsequent breach or default and will in no way affect the other terms of the Contract.

**25. Enforceability**

If any particular clause of the Contract will be or be held to be invalid or unenforceable by any court or other competent body or authority, the enforceability of any other clauses in the Contract will not be affected and they will continue in full force and effect.

**26. Resolving Complaints or Disputes**

- 26.1 If you have a complaint or query regarding any aspect of the Services including your invoice, please contact us by contacting our Customer Services team between the hours of 9am and 5.30pm Monday to Friday (excluding bank holidays in England) on 03456 200 200 or by writing to us at 2 Circles Communications Ltd, Ver House, 23 – 25 High Street, Redbourn, Hertfordshire, AL3 7LE. Please include both your telephone and customer account numbers in any correspondence.
- 26.2 If you are a Domestic or Small Business Customer and you are not happy with our response to any complaint or query that you make, you may refer your complaint to Ombudsman Services: Communications at [www.ombudsman-services.org/communications](http://www.ombudsman-services.org/communications), email [osenquiries@os-communications.org](mailto:osenquiries@os-communications.org), telephone 0330 440 1600.

**27. Bringing a Claim**

You must bring any legal proceedings against us arising from this Contract within twelve (12) calendar months from the date you first became aware or ought reasonably to have become aware of the facts giving rise to the liability or alleged liability or within the relevant statutory limitation period, whichever is the earlier.

**28. Law**

- 28.1 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.
- 28.2 The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims).



## **Data Processing Annex**

### **Processing of Personal Data by us on your behalf**

Some of the Services we provide involve us processing Personal Data on your behalf.

Where we (as your Data Processor) process Personal Data on behalf of you (as Data Controller), we will do so on the basis set out in this Annex (where capitalised terms have the meaning set out in the Data Protection Legislation).

#### **Scope of Processing**

2 Circles Processes Personal Data to enable it to provide, manage, enhance, review and service the Products and to discharge any legal obligations imposed upon it.

#### **Nature and purpose of processing**

2 Circles Processes the Personal Data to:

- (a) make informed decisions about End Users and the Products;
- (b) perform day to day management of accounts and Products;
- (c) record consent, e.g. in relation to marketing preferences or disability or medical conditions, to make its Products more accessible, to provide information in alternative formats and to ensure marketing materials are issued in line with preferences;
- (d) provide, maintain and bill the Products;
- (e) provide access to online platforms;
- (f) meet its legal and regulatory obligations and to comply with orders of the court or other bodies having lawful jurisdiction;
- (g) authenticate End Users on services we provide.
- (h) identify, manage and resolve Incidents;
- (i) assess and report on the credit-worthiness of customers or potential customers;
- (j) take any other action to the extent necessary to discharge an obligation pursuant to the Contract; and
- (k) receive, manage and resolve requests, queries, complaints and claims.

#### **Categories of Personal Data**

The Personal Data Processed shall concern the following categories of Personal Data only:

- (a) account data e.g. caller line identification/telephone numbers, account number, device ID, IP address, service history and usage data;
- (b) personal data e.g. name, title, address and circuit ID;
- (c) interaction history and connection data e.g. authentication logs, online alias and service performance data; (d) company data where this identifies a Data Subject e.g. company name and company registered number;
- (e) contact information e.g. email address;
- (f) social media details e.g. profile IDs and handles;
- (g) professional life data e.g. job title and employer;
- (h) Product information e.g. speed logs;

#### **Categories of Data Subject**

The Personal Data Processed shall concern the following categories of Data Subjects only:

- (a) officers and staff of Customer, including employees, consultants, volunteers, agents, temporary workers, casual workers and other individuals authorised to act on behalf of Customer; and
- (b) Ends Users or their authorised representatives.

#### **Duration of Processing**

2 Circles shall Process Personal Data for no longer than is necessary for the purposes for which it is Processed.