



SWIFT

communications

SWIFT COMMUNICATIONS LIMITED
TERMS AND CONDITIONS OF SUPPLY
FIXED LINE SERVICES, PROVISION OF EQUIPMENT AND MAINTENANCE SERVICES

THESE TERMS AND CONDITIONS GOVERN THE SERVICES WE OFFER. YOU SHOULD ENSURE THAT YOU HAVE READ AND UNDERSTOOD THEM BEFORE YOU ENTER INTO A CONTRACT WITH US.

Please note that the following services are the only services we offer which allow access to the **Emergency Services** and **Caller Location Information**:

Business Landline, Business VoIP, SIP Trunking, Inbound,

1. THE CONTRACT

1.1 No Contract will come into existence between You and the Company until You have been notified by the Company that Your order has been accepted.

1.2 The Contract between You and the Company will be subject to and consist of:

- 1.2.1 these Terms and Conditions;
- 1.2.2 any conditions imposed and noted on the Order Form;
- 1.2.3 any Specific Conditions.

1.3 The Contract constitutes the entire contract between You and the Company and may only be varied in writing signed by both You and by an authorised representative of the Company.

1.4 A requirement in the Contract for You to carry out or not to carry out any action will be deemed to be a requirement that You take all reasonable steps to ensure that the End User carries out or does not carry out such an action.

1.5 The Contract will cease to take effect in any or all of the following circumstances:

- 1.5.1 if the Company is unable for any reason to supply a particular device;
- 1.5.2 if the Company cannot comply with any Installation date it has agreed on the Order Form;
- 1.5.3 if the Company carries out a survey of the location where any equipment is to be installed and, in its sole opinion, decides that Installation would be uneconomic;
- 1.5.4 if the Company discovers, before it has commenced to supply or install Equipment or provide any Fixed Line Services, that it has made an error or omission on the Order Form;
- 1.5.5 if the Company receives, before it has commenced to supply or install Equipment or

provide any Fixed Line Services, the result of a credit check against You which, in the sole opinion of the Company, suggests that it should not offer You credit facilities on normal terms,

and, in any or all such circumstances the Company serves upon You written notice terminating the Contract, in which event, the Company will refund all or any money You have paid to it within 7 days of the date of such notice.

2. THE SERVICES PROVIDED BY THE COMPANY

2.1 Where indicated on the Order Form, the Company will supply the Equipment and will arrange to connect You to the System subject to these Terms and Conditions and will use its best endeavours to ensure that the services are available to You at all times during the term of this Agreement and any extension of that term.

2.2 You accept and acknowledge that the services depend upon:

- 2.2.1 the availability of systems;
- 2.2.2 Your geographical location;
- 2.2.3 physical features, atmospheric conditions and electronic interference; and
- 2.2.4 other issues beyond the control of the Company,

and You accept that the Fixed Line Service and the System may fail from time to time and that such failure will give rise to no cause of action against the Company.

2.3 You accept that the terms and conditions of the Service Provider which were provided to You prior to the date of the Contract:

- 2.3.1 apply to Your use of the Service and the manner in which it is provided; and
- 2.3.2 specify how minimum service levels will be upheld.

2.4 You acknowledge that the Company has the right at any time to change the Service Provider and the Company will, if possible and reasonable in all the circumstances, give You 14 days' notice of such change and that, if You fail to accept the terms and conditions of any such replacement Service Provider, the Company may terminate the Contract as if such failure constituted a material breach of these Terms and Conditions.

3. CLAUSE NUMBER NOT USED IN THIS AGREEMENT

4. SUPPLY OF EQUIPMENT AND INSTALLATION SERVICES

4.1 This Clause 4 will apply if You have asked the Company to supply Equipment and/or to provide Installation services.

4.2 The Company will use its best endeavours to deliver the Equipment and/or commence the Installation by the date agreed on the Order Form or, if no such date has been agreed, within a reasonable time from the date of the Contract but You accept that time is not of the essence in respect of delivery and/or commencement.

4.3 If delivery or Installation is to take place in stages then any reasonable delay will not entitle You to terminate the Contract.

4.4 Failure to take delivery of the Equipment or any part of the Equipment will be a material breach of these Terms and Conditions and, in addition to the remedies specified in these Terms and Conditions, the Company may charge You a reasonable sum for storing the Equipment.

4.5 Notwithstanding Clause 4.4, the Company may, if delivery is not possible within 28 days of the agreed date or the date of the Contract (whichever shall be the sooner), deem delivery to have taken place and, in which event, all other provisions of the Contract which would otherwise have come into effect on delivery will be deemed to have commenced.

4.6 You must:

4.6.1 arrange and pay the cost of connecting the Service to the public switch telecommunications network and/or the provision of any additional lines to the public telephone system;

4.6.2 ensure that an electrical supply of 240 volts conforming to the reasonable requirements of the Company (including, but not by way of limitation, requirements of quality, adequacy of circuit number, power output and environmental issues) is available within 3 metres of the proposed site for each piece of the Equipment;

4.6.3 ensure that the proposed site/s for the Equipment is ready, in all respects, for its Installation;

4.6.4 ensure that the infrastructure required for the Installation and for the Equipment is ready and able to make connection to the Equipment.

4.7 You agree that risk in the Equipment passes to You on delivery to You or to the address You have specified on the Order Form or of deemed delivery if Clause 4.5 applies.

4.8 Notwithstanding Clause 4.7, ownership in the Equipment will not vest in You until all sums due to the

Company pursuant to the Contract have been paid in full to the Company.

4.9 Until ownership of the Equipment passes to You, You will:

4.9.1 hold the Equipment safe, secure, fully and properly repaired and maintained in accordance with the instructions provided by the manufacturer and (where required to do so) at all times in good working order and ensure that the Equipment operates the latest version of the operating system and software required for its use;

4.9.2 deliver the Equipment to the Company, on demand;

4.9.3 hold the Equipment on trust for the Company, free from any charge or similar encumbrance and in a state which clearly shows that it is the property of the Company;

4.9.4 not destroy, deface or remove any identifying mark placed on the Equipment by the manufacturer or the Company;

4.9.5 maintain a fully comprehensive policy of insurance covering all risks in relation to the loss, theft or damage of the Equipment and provide a copy of such policy, free of charge, to the Company on demand;

4.9.6 if You have committed any breach of these Terms and Conditions or on termination of the Contract for whatever reason on demand by the Company, immediately return the Equipment to the Company in the state required by this Clause 4.9 and with all original packaging;

4.9.7 in the event that for any reason You are not able to return the Equipment to the Company fully in accordance with the provisions of this Clause 4.9, pay the Company the full retail price of the Equipment as advised by the Company; and

4.9.8 not sell or attempt to sell the Equipment or any part thereof.

4.10 You grant to the Company an irrevocable licence to enter the premises owned, occupied or controlled by You and at which the Equipment is stored for the purpose of recovering the Equipment should You fail to return it pursuant to a proper demand made under the Contract.

4.11 If the Equipment or the Installation develop a fault during the period of 12 months commencing on the date upon which it was delivered or installed (whichever is the later date), the Company will, at its sole option and without cost to You, repair the Installation and/or replace the Equipment or return it to the manufacturer for repair subject to the following conditions:

4.11.1 the fault must be due to a manufacturing defect, parts defect or a defect in design; and

4.11.2 You must notify the Company within 3 days of the fault developing.

4.12 If You have taken out a maintenance or service contract with any third party which is designed to cover faults in the Equipment, the Company will have no responsibility for repairing any such faults save for faults which were present on delivery of the Equipment.

4.13 The Company will arrange the repair or replacement of any Equipment which fails after the period of 12 months, subject to payment by You of the full costs of repair and of the administration associated therewith.

4.14 If the Company has agreed to provide Maintenance Services in respect of the Equipment the provisions of Clause 7 will apply and in the event of a conflict between this Clause 4 and Clause 7, the provisions of Clause 7 will prevail.

4.15 The Company has no liability for defects to the Equipment or to the Installation arising out of:

4.15.1 misuse; or

4.15.2 use of the Equipment in conditions or circumstances for which it was not designed and which were not notified to the Company in advance of the Contract; or

4.15.3 alteration, maintenance or repair of the Equipment or Installation by You or any third party; or

4.15.4 the use with the Equipment of any device which was not supplied by the Company or the use of which has not been sanctioned in writing by the Company; or

4.15.5 normal wear and tear.

4.16 The Equipment, or any part of it, which is replaced by the Company will become the property of the Company.

4.17 The Company may charge, at its standard rates, the cost of carrying out any maintenance and/or repair which has arisen as a result of the matters listed in Clause 4.15.

4.18 Unless You have purchased Maintenance from the Company its sole liability for any defect in the Equipment or in the Installation is that acknowledged by this Clause 4.

4.19 The Company hereby grants to You a non-exclusive and non-transferable licence to use the Software but only for the purposes anticipated by the Contract and only to enable You to use the Service.

4.20 If required by the Company, You will execute an end user licence agreement containing terms which are reasonably specified by the owner of the Software to protect the intellectual property and other rights of such owner.

5. FIXED LINE SERVICES

5.1 The provisions of this Clause 5 will apply if You have requested that the Company supplies Fixed Line Services on the Order Form.

5.2 The Company will use its reasonable endeavours to supply the Service from the Connection Date with reasonable skill and care.

5.3 You acknowledge that the Service is dependent upon the Company being able to secure such service from a Carrier and that, providing that the Company takes all reasonable steps to rectify a fault in or interruption to the Service as quickly as is reasonably possible, the Company will have no liability to You for any fault or interruption to the Service whether in contract, tort or otherwise, and whether or not arising out of negligence or breach of statutory duty by the Company or otherwise and howsoever caused and including (but not by way of limitation) faults or interruptions caused by issues on the network through which the Service is provided, acts or

omissions of the Carrier, atmospheric or other environmental reasons and the effects of any virus or similar attack.

5.4 You accept and agree that the provision of broadband services as an element of the Fixed Line Services:

5.4.1 does not bring with it an obligation on the part of the Company to supply a modem or other device to allow access to such broadband services;

5.4.2 does not carry any guarantee that the speed of the broadband connection will at all times accord with that advertised by the Company for reasons which are beyond the control of the Company; and

5.4.3 does not include the cost of registration of any domain name or URL on Your behalf and that the Company may charge such costs to You as part of the Charges to be paid under the Contract.

5.5 You acknowledge and agree that You do not own or have the right to sell any telephone number allocated to You under the provisions of the Contract and that the Company has the right to make the additional charges for porting such number set out in the Tariff.

5.6 If You have requested the transfer of lines and/or services provided by a third party to the Company then:

5.6.1 the Company will, from the date upon which those lines and/or services are transferred, charge for them in accordance with the Tariff unless otherwise agreed on the Order Form; and

5.6.2 You will pay and discharge all early termination and other charges made by such third party unless the Company has indicated on the Order Form that it will bear such charges or part of them.

6. VOIP SYSTEMS

6.1 If the Company has agreed to provide any part of the Service through VOIP, You accept that the service may not provide the same standard which is available using a fixed land line.

6.2 You acknowledge that the following issues may arise and will not provide any cause of action against the Company:

6.2.1 VOIP may not offer the same levels of quality, performance, resilience and features as a fixed land line;

6.2.2 VOIP services may be interrupted more frequently than fixed land lines;

6.2.3 call quality can vary;

6.2.4 access to the emergency services numbers will not match that provided by a fixed land line, may not always be available and may not receive the same level of response as if the call originated from a fixed land line; and

6.2.5 should You use the bandwidth allocated to any VOIP system for purposes other than telephone services, the quality of the VOIP system may deteriorate.

7. MAINTENANCE SERVICES

7.1 The provisions of this Clause 7 will apply if You have requested that the Company supplies Maintenance Services on the Order Form.

7.2 In consideration of the fee shown on the Order Form for the provision of Maintenance Services, the Company will supply such services for the Minimum Term.

7.3 On the expiry of the Minimum Term, the Contract will renew automatically for the further period of 12 months (the "Renewal Period") and, thereafter, will automatically renew at the end of each Renewal Period unless terminated in accordance with the provisions of the Contract.

7.4 You may give at least 90 days' written notice to the Company expiring on or before the end of the Minimum Term (or of any Renewal Period) to terminate the Contract and, in that event, the Contract will terminate on the expiry of the Minimum Term or the end of the Renewal Period in which such notice has been given, whichever is the later.

7.4 The Maintenance Services will be supplied only in relation to the Equipment specified on the Order Form.

7.5 The Company will use its best endeavours to provide the Maintenance Services within 2 Business Days (or any other period specified on the Order Form) of the receipt of a request for assistance from You and You undertake to make the Equipment available to the Company. You agree that time is not of the essence in relation to the provisions of this Clause.

7.6 The Company may, at its sole option, replace defective Equipment or any part thereof with new or reconditioned parts and ownership of any part which is replaced will vest in the Company and all replacements will be on a like for like basis.

7.7 Whilst the Company will, at all times, use reasonable endeavours to ensure that the services which require the Equipment are restored as quickly as practicable, You agree that the Company has no responsibility to complete any repair within a particular time, even if it has given an estimate of such time.

7.8 The following matters are not included as part of the Maintenance Services:

7.8.1 any part or labour costs arising from telephone line conditions, criminal activity, fire or water damage, lightning, electric current fluctuation, the unsatisfactory location of the Equipment and the use or attachment of unapproved parts or accessories, software and any other device;

7.8.2 any part or labour costs arising from a breach by You of the provisions of Clause 8;

7.8.3 any part or labour costs arising from any repair or alteration, modification or maintenance of the Equipment or its transportation or relocation not authorised by the Company;

7.8.4 any part or labour costs in relation to the wiring of the Equipment;

7.8.5 any part or labour costs arising from defects in the software, replacement cassettes, aerials, aerial systems, batteries, telephone area code changes, a change in the Carrier and/or consumable supplies used with the Equipment;

7.8.6 any reprogramming of the Equipment other than to allow for its normal operation;

7.8.7 unless agreed on the Order Form, the repair or replacement of telephones, physical answering machines, facsimile machines, computer and/or computer servers, uninterruptable power supplies, batteries and other consumables, wires and cables and any peripheral device connected to the Equipment including (but not by way of limitation) printers, external music on hold devices, p.a. and intercom systems;

7.8.8 the repair or maintenance of the Equipment which a reasonably skilled telecommunications engineer would deem to be unnecessary;

7.8.9 any fault which is due to the Carrier and not the Equipment; and

7.8.10 any review or survey of the Equipment before the Company commences the Maintenance Services to ensure that it complies with the reasonable standards of the Company and any costs or repair or upgrading to the Equipment so that it meets such reasonable standards.

7.9 The Company may, in addition to all and any other rights to do so, suspend or terminate the Maintenance Services in respect of the Equipment if it becomes impossible or unreasonably difficult to obtain the parts necessary to repair and maintain the Equipment or any consent required by the Company to enable it to carry out the Maintenance Services is suspended or withdrawn and, in that event, the Company will refund to You any unused proportion of the fees it has charged for Maintenance Services.

8. YOUR OBLIGATIONS

8.1 You warrant and agree:

8.1.1 that You are entering into the Contract for the purposes of Your business and not as a consumer;

8.1.2 that the information which You have provided to the Company on the Order Form (including, but not by way of limitation, information relating to delivery, installation and use) and elsewhere is complete and accurate in all respects and that, where You supply to the Company any drawings, descriptions, sketches and/or any written material of any nature, You have the absolute and unfettered right to use such items without the consent of any third party and that they are complete and accurate;

8.1.3 that Your use of the System does not and will not be for an illegal, immoral or improper use of any nature in any jurisdiction;

8.1.4 that Your use of the Equipment will be in accordance with the requirements and recommendations of the Company and of the manufacturer of the Equipment;

8.1.5 that Your use of the Equipment will accord with all recommendations and reasonable instructions provided from time to time by the Company and only for the purpose which You have agreed in advance with the Company;

- 8.1.6 not (without the written consent of the Company and compliance with any conditions it imposes) to use the System, the Equipment or anything attached or connected to either of them nor any call routing apparatus or extension wiring (save those installed by the Company) in such a manner as to damage or interfere in any way with the interests of the Company in the System or the Service;
- 8.1.7 not at any time to sell or resell or distribute or redistribute the Fixed Line Services or to use the System for such activities nor to attach to the System any device which does not comply with the Regulations, the General Conditions and/or all other Relevant Laws;
- 8.1.8 to notify the Company as soon as You become aware that the System or the Fixed Line Services are being used in a manner which would constitute a breach of any of these Terms and Conditions;
- 8.1.9 that You will carry out all maintenance and other measures required from time to time by the Company and will operate the Equipment only in an environment which complies with the recommendations of the manufacturer or which has been advised by the Company;
- 8.1.10 that You will notify the Company of any change in Your trading address, registered office or the details of the bank from which You make payments to the Company and of any other information which You have provided to the Company at any time;
- 8.1.11 not at any time to copy, reverse engineer, decompile, modify or in any other way interfere with the Software or any manuals or documents associated with it nor allow any third party to make alterations or additions to such Software;
- 8.1.12 not at any time to move the Equipment or relocate it from the position it occupied on the Commencement Date without the prior written consent of the Company and to comply with any reasonable conditions imposed by the Company in relation to such move or relocation and the payment of the Company's reasonable fees for assessing the proposed new location;
- 8.1.13 that, when called upon to do so by the Company, You will change passwords, user names and/or PINs as quickly as is reasonably possible;
- 8.1.14 to ensure that all legends bearing the name of the Company and/or any third party which are present on the Equipment on its delivery will remain in place and undefaced at all times whilst the Equipment is in use;
- 8.1.15 that You are the owner or the authorised user of any trade mark or name You wish to use in or as part of any domain name or URL which we supply to You;
- 8.1.16 that, on request from the Company, You will provide alternative domain names and URLs if the Company is unable to register those which You have requested;
- 8.1.17 to allow or obtain the necessary rights for the Company, at all times when it reasonably requires, to access (in a safe and secure manner) the location of the Equipment at such time or times when the Company reasonably requires, even if those times are outside normal business hours;
- 8.1.18 to ensure that at all times when the personnel of the Company are at the location of the Equipment, You will have in place comprehensive and effective insurance to cover Your liability for any damage sustained by such personnel or their equipment;
- 8.1.19 to supply to the Company accurate and detailed drawings and details of any service installations which may affect the Equipment or the siting thereof or any connections thereto;
- 8.1.20 that, whilst the Company has at all times the obligation to leave the location where the Equipment is situated in a clean and tidy condition, You will be responsible for making good any damage caused in the process of installing or maintain the Equipment;
- 8.1.21 to notify the Company before the Installation of any Equipment of all and any environmental or other hazards which may affect such Installation including (but not by way of limitation) the presence of materials such as asbestos;
- 8.1.22 to ensure at all times when such equipment is connected that any equipment supplied by the Company to assist in connection to the System or designed to monitor or analyse the Equipment for repair and maintenance purposes is kept free from harm and not to disconnect, move or otherwise interfere with such equipment;
- 8.1.23 that Your use of any broadband services provided by the Company pursuant to the Contract will not exceed the acceptable use policy published from time to time by the Company on its website;
- 8.1.24 to ensure at all times that You operate proper and effective firewalls and virus prevention measures to protect the Equipment and the System from and against all and any attacks by virus, Trojan, worm or other similar program intended to cause harm or damage to You, the System or to any third party;
- 8.1.25 that all and any information You make available to any third party using the System is and will remain wholly accurate and will not include any information or material, any part of which, or the accessing of which or use of which, would be a criminal offence or is otherwise unlawful;
- 8.1.26 that You will comply with all consumer and other legislation, instructions or guidelines issued by regulatory authorities and relevant licences which relate to the provision of the information on any website or other service You operate using the System;

- 8.1.27 that You will notify the Company as soon as is reasonably possible of the loss or theft of the Equipment and/or of any unauthorised use of the System using the Fixed Line Services; and
- 8.1.29 if You move from the location where the Equipment is installed, to be responsible for all Charges incurred in relation to its use, unless the Company has agreed to transfer the Service to the new occupier of that location.
- 8.2 You agree that the Company may act on the instruction of anyone acting or purporting to act on Your behalf unless You have advised the Company in writing not to accept an instruction from a specified person.
- 8.3 You agree to appoint at least one member of Your staff to be a "Chief Operator" who has Your authority to bind You and to instruct any person using the System, Service or Equipment in its proper use, to receive training and instruction from the Company in the operation of the Equipment, System and the Service and to act as the initial point of contact with the Company and, at all times when the Chief Operator is not available, to have a suitable substitute available to deal with urgent issues.
- 8.4 You understand and agree that the Fair Use Policy which is published by the Company on its website and which can be accessed on request and applies to Your use of the Service and You understand that the Company may change such Fair Use Policy from time to time and that, provided such changes are reasonable, they will apply to Your continued use of the Service.
- 8.5 You agree at all times to comply with the Regulations, the General Conditions and any Relevant Laws which govern the use of the System or the Fixed Line Services.
- 8.6 You will at all times comply with the Service Rules.

9. CHARGES

- 9.1 Unless otherwise agreed in writing by the Parties:
- 9.1.1 the Tariff will be the minimum tariff payable by You during the subsistence of the Contract;
- 9.1.2 the Company may increase all Charges which are applied under the Contract on 1st April immediately following the Commencement Date and each anniversary of such date by an amount equal to the increase in the Retail Prices Index for the period of 12 months immediately the date upon which such increase is due to take effect; and
- 9.1.3 line rental charges will commence from the Commencement date.
- 9.2 You will pay all Charges on or before the Payment Date using the payment method agreed by You on the Order Form or specified by the Company by notice in writing save for any charges for any temporary or unusual Fixed Line Services which the Company agrees to provide, which must be paid in advance.
- 9.3 Unless stated otherwise in the Tariff or on the Order Form, You accept that call charges will be rounded up to the nearest penny and call durations rounded up to the nearest minute and that the time bands allocated in the Tariff will govern the rate at which all calls are charged.
- 9.4 You agree that, should the Company agree to deal with any of the matters listed in Clause 7.8 or any other services to You outside the provisions of the Contract, You will pay the advertised or reasonable fees of the

Company for the provision of such services and that, in relation to such services, the invoice date for them will be the Payment Date for the purposes of the Contract.

9.5 The Charges made by the Company for delivery anticipate that such delivery will be able to take place on the date agreed, in one visit and will be to an easily accessible ground floor location, unless otherwise stated on the Order Form, and You agree to pay all reasonable additional charges imposed by the Company should delivery prove to be significantly more difficult than anticipated.

9.6 For any Fixed Line Services You take:

- 9.6.1 the line rental will be payable quarterly in advance;
- 9.6.2 all call charges will be invoiced to You monthly in arrears and the Payment Date for such charges will be 10 days from the date of the invoice for them.

9.7 For any Maintenance Services You take You will pay the Company's annual or monthly subscription in advance in the manner prescribed on the Order Form.

9.8 The Company may deliver its invoices electronically and will notify You when any invoice is ready for viewing but if You request a paper invoice, the Company may apply a reasonable additional fee to cover the administrative costs of providing that invoice.

9.9 The Company may apply a fee of at least £20 plus VAT as liquidated damages to cover the administrative costs associated with the non-payment (for any reason) by You of all and any payments due under the Contract on each occasion of such non-payment.

9.10 If any payment due under the Contract is not made on the Payment Date You will pay to the Company, in addition to such payment:

- 9.10.1 interest at the rate of 6% above the base rate for the time being of Barclays Bank PLC from the Payment Date until the actual date of payment and whether before or after any judgment; and
- 9.10.2 the reasonable fees and expenses incurred by the Company in pursuing payment of all sums due to it under the Contract including the costs charged by any debt collection agent, all legal fees incurred by the Company (on a solicitor and own client basis) and all other costs and expenses to which the Company is put in its attempts to recover such payment.

9.11 You acknowledge and agree that if any payment due under the Contract is not made by the Payment Date the Company may report such default to such credit reference agencies as it chooses.

9.12 All Charges and payments under the Contract are subject, where appropriate, to VAT.

9.13 If You are identified on the Order Form as a Small Business Customer and the Company has omitted to provide or delayed in providing an invoice for the Fixed Line Services, such invoice will remain due and payable if such invoice is for Fixed Line Services provided in the period not more than 4 months from the date of such invoice and the Company provides the next invoice no more than 3 months from the date of the previous invoice.

9.14 You agree that the Company may pass to any credit reference agency or to any Service Provider Your Personal Data for the purposes only of assessing Your suitability for receiving the Fixed Line Services and for setting any limits on the credit You are allowed by the Company.

9.15 If You wish to dispute any invoice supplied by the Company, You will provide the Company with comprehensive details of the nature of the dispute within 14 days from the date of such invoice and will pay to the Company:

9.15.1 the full amount of the invoice if less than 5% of the value of that invoice, net of VAT, is disputed; or

9.15.2 the full amount of the invoice less the disputed sum net of VAT if 5% or more of the value of that invoice, net of VAT, is disputed.

9.16 By taking line rental from the Company (unless otherwise stated on the Order Form) You are also committed to using the services of the Company for calls over that line with which You have been supplied and should You use an alternative call service for calls once the Contract has commenced, or do not use the services provided by the Company to make or receive calls to the effect that if in any period the call charges due to the Company are significantly reduced in comparison with Your previous use of the System, You agree that the Company may charge You the difference between the average monthly spend on calls prior to such commencement or prevention and the subsequent monthly spend on calls (if any).

10. CALL COMMISSION

10.1 Subject to Clauses 10.4 and 10.5, the Company will pay Call Commission to You in respect of calls to each applicable Premium Service delivered to and received by a number at the rate and in the amount set out on the Order Form or in the Tariff.

10.2 Following the end of each calendar month, the Company will submit to You a statement detailing the number and duration of all such calls delivered and received by You in respect of each Premium Service and:

10.2.1 within 14 days of receiving such statement You will submit an invoice to the Company in the amount shown as owing on the statement; or

10.2.2 if agreed on the Order Form, the Company will prepare such invoice on Your behalf and You agree not to issue any invoice for such Call Commission.

10.3 The Company may set-off the Call Commission against any Charges or other amounts due to the Company.

10.4 The Company shall not pay Call Commission in respect of any call which it reasonably believes may have originated outside the United Kingdom.

10.5 Call Commission shall not be payable on invoice balances of £10 or less (or such other sum as notified to You by the Company in writing from time to time) and any balances shall not roll over from one month to the next.

10.6 Call Commission is a function of the number and duration of inbound calls to the relevant telephone

number, which will vary from day to day, and You accept that any predicted amount of Call Commission is an estimate only and You acknowledge that You have placed no reliance upon such estimate.

10.7 Your right to receive any Call Commission will end if the Fixed Line Service is terminated for any reason.

11. TERMINATION AND SUSPENSION

11.1 The Company may terminate the Contract at any time and without reason by giving to You at least 30 days' notice in writing whereupon the Contract and the Fixed Line Services provided under it will cease and determine.

11.2 Either Party may terminate the Contract immediately by notice in writing if:

11.2.1 the other Party commits any material breach of its obligations under the Contract (including but not by way of limitation non-payment of any invoice) and fails to remedy such breach within 14 days of being given notice to do so;

11.2.2 an encumbrancer takes possession, or where the other Party is a company, a receiver is appointed, of any of the property or assets of that other Party;

11.2.3 the other Party makes any voluntary arrangement with its creditors or, being a company, becomes subject to an administration order (within the meaning of the Insolvency Act 1986);

11.2.4 the other Party, being an individual or firm, has a bankruptcy order made against it or, being a company, goes into liquidation (except for the purposes of bona fide amalgamation or reconstruction and in such a manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on that other Party under the Contract);

11.2.5 anything analogous to any of the foregoing under the law of any jurisdiction occurs in relation to the other Party;

11.2.6 that other Party ceases, or threatens to cease, to carry on business; or

11.2.7 control of that other Party is acquired by any person or connected persons not having control of that other Party on the date of the Contract.

11.3 For the purposes of this Clause 11, "control" and "connected persons" will have the meanings ascribed thereto by Sections 1124 and 1122 respectively of the Corporation Tax Act 2010.

11.4 For the purposes of sub-Clause 11.2.1, a breach will be considered capable of remedy if the Party in breach can comply with the provision in question in all respects.

11.5 If You have agreed to take a Fixed Line Service from the Company and unless You are a Small Business Customer or the Contract has not been terminated in accordance with any other provision of the Contract, the following provisions will apply:

11.5.1 On the expiry of the Minimum Term, the Contract will be automatically move onto a 30-day rolling Contract.

11.5.2 You may give at least 30 days' written notice to the Company expiring on or before the end of

the Minimum Term to terminate the Contract and, in that event, the Contract will terminate on the expiry of the Minimum Term or the end of the 30-day rolling Contract in which such notice has been given, whichever is the later.

11.6 If You have agreed to take a Fixed Line Service from the Company and if You are a Small Business Customer, You may terminate the Contract by giving to the Company at least 30 days' written notice expiring on or after the end of the Minimum Term and, in that event, the Contract will terminate on the expiry of such notice.

11.7 The Company may (in its sole discretion and either in addition to or in substitution for all other rights referred to in this Clause 11) suspend the Service without any liability to You:

11.7.1 if You fail to make any payments due by the Payment Date; or

11.7.2 if the right to terminate the Contract arises under any provision of the Contract; or

11.7.3 if You carry out any action which, in the reasonable opinion of the Company, would or might jeopardise the safe and secure operation of the Service; or

11.7.4 if, in the sole discretion of the Company, Your use of the Service demonstrates activity which suggests that You are abusing or misusing the System including (but not by way of limitation) activities which suggest low or excessive usage, unusual calling patterns and a disproportionate number of incoming calls; or

11.7.5 if the Company is required by a competent authority or by law to suspend or terminate the Service or any part of it or if, for any reason, the Company is unable to provide the Service; or

11.7.6 if You exceed any credit or call limits referred to on the Order Form; or

11.7.7 if the Company has reason to believe that You or anyone under Your control has committed any action which could compromise the security of the Service or of the System; or

11.7.8 if the Company has reason to believe that You are using the Fixed Line Services fraudulently, unlawfully or they are being used by an unauthorised third party; or

11.7.9 if the Company is required to do so by the Carrier, OFCOM, or on the order or request of any governmental department, the emergency services or any other competent authority for any reason including, but not by way of limitation, the suspension of the Company's licence to operate; or

11.7.10 if any maintenance or repair is required to the System or to any elements associated with the System; or

11.7.11 if the Company, for any reason beyond its control, is unable to offer the Fixed Line Services; or

11.7.12 the Charges which have accrued on Your Account exceed the limit which the Company has placed on the credit available to You at any time and You accept and agree that such limit is a matter for the Company to set in its sole discretion.

11.8 Should the Company exercise its right to suspend the Service, You will pay to the Company, before the Service is restored by the Company, all reasonable costs and Charges imposed by the Company as a result of lifting such suspension and, if required by the Company, a security deposit equivalent to 3 times Your average monthly invoice or such other sum as the Company in its absolute discretion shall decide.

11.9 Notwithstanding the other provisions of these Terms and Conditions, the Company may terminate the Contract immediately and without notice if OFCOM or any Carrier prevents the Company from providing the Service for any reason.

11.10 The rights to terminate or suspend the Contract given by this Clause 11 will not prejudice any other right or remedy of either Party in respect of the breach concerned (if any) or any other breach.

12. EFFECTS OF TERMINATION

Upon the termination of the Contract for any reason:

12.1 any sum owing by either Party to the other under any of the provisions of the Contract will become immediately due and payable;

12.2 You will immediately return to the Company the Equipment, in the state and condition required by the Contract;

12.3 all Clauses which, either expressly or by their nature, relate to the period after the expiry or termination of the Contract will remain in full force and effect;

12.4 termination will not affect or prejudice any right to damages or other remedy which the terminating Party may have in respect of the event giving rise to the termination or any other right to damages or other remedy which any Party may have in respect of any breach of the Contract which existed at or before the date of termination;

12.5 You will have no right to claim a refund of any monthly Service fee or part thereof if the Contract is terminated before the end of the month in which that Service is being provided;

12.6 You accept that the Company may make reasonable Charges for providing information and assistance to any other service provider to whom You transfer the Fixed Line Service provided under the Contract and a reasonable charge for porting Your number or other identifier to another service provider; and

12.7 subject as provided in this Clause 12 and except in respect of any accrued rights, neither Party will be under any further obligation to the other.

13. CALL MONITORING

The Company may monitor all and any calls made between You and the Company for training and such other purposes as the Company shall reasonably decide and You agree to notify all persons who You authorise to contact the Company of the existence of this provision.

14. INDEMNITY

14. Without prejudice to any other rights of the Company, You shall indemnify, keep indemnified and hold harmless the Company against all costs (including without limitation legal costs and the cost of enforcement (on a full indemnity basis)), liabilities,

claims, damages, direct, indirect or consequential losses (including without limitation pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss whether such losses are direct, indirect or consequential losses), expenses and/or judgments whatsoever, which it may suffer or incur, and arising from any:

- 14.1 breach by You of any warranties, undertakings and/or representations given under the Contract and/or any failure to comply with any of Your obligations, responsibilities and/or liabilities set out in the Contract; and/or
- 14.2 injury and/or damage suffered or incurred by or to any of the Company's (or any of the Company's contractor's) employees and/or equipment whilst on the location where the Equipment is installed; and/or
- 14.3 infringement by You (including Your affiliates, directors, officers, agents, consultants and employees) of any third party's Intellectual Property Rights.

15. CONFIDENTIALITY AND DATA

15.1 Each Party undertakes that, except as provided by Clause 15.2 or as authorised in writing by the other Party, it will, at all times during the continuance of the Contract and after its termination:

- 15.1.1 keep confidential all Confidential Information;
- 15.1.2 not disclose any Confidential Information to any other party;
- 15.1.3 not use any Confidential Information for any purpose other than as contemplated by and subject to the terms of the Contract;
- 15.1.4 not make any copies of, record in any way or part with possession of any Confidential Information; and
- 15.1.5 ensure that none of its directors, officers, employees, agents, sub-contractors or advisers does any act which, if done by that Party, would be a breach of the provisions of sub-Clauses 15.1.1 to 15.1.4 above.

15.2 Either Party may:

- 15.2.1 disclose any Confidential Information to:
 - 15.2.1.1 any sub-contractor or supplier of that Party;
 - 15.2.1.2 any governmental or other authority or regulatory body; or
 - 15.2.1.3 any employee or officer of that Party or of any of the aforementioned persons, parties or bodies,
to such extent only as is necessary for the purposes contemplated by the Contract, or as required by law. In each case that Party will first inform the person, party or body in question that the Confidential Information is confidential and (except where the disclosure is to any such body under sub-Clause 15.2.1.2 or any employee or officer of any such body) obtaining and submitting to the other Party a written confidentiality undertaking from the party in question. Such undertaking should be as nearly as practicable in the terms of this Clause 15, to keep the Confidential Information confidential and to use it only for the purposes

for which the disclosure is made; and

- 15.2.2 use any Confidential Information for any purpose, or disclose it to any other person, to the extent only that it is at the date of the Contract, or at any time after that date becomes, public knowledge through no fault of that Party. In making such use or disclosure, that Party must not disclose any part of the Confidential Information which is not public knowledge.

15.3 The provisions of this Clause 15 will continue in force in accordance with their terms, notwithstanding the termination of the Contract for any reason.

15.4 You acknowledge and agree that the Company may use and/or transfer (within and beyond the European Economic Area) Personal Data and/or Confidential Information obtained from You pursuant to Your order and Your use of the Fixed Line Services for the following purposes:

- 15.4.1 the administration of Your Account (including, but not by way of limitation, liaising with any Service Providers and sharing the data with members of the Company's Group);
- 15.4.2 notifying You of changes to the Service;
- 15.4.3 to enable the Company to provide the services it offers pursuant to the Contract; and
- 15.4.4 to invoice You.

15.5 The Company will not pass Personal Data obtained from You to any third parties for marketing purposes but may send You information about the Company's (or any member of its Group) own products and services which it considers may be of interest to You, unless You specifically ask the Company not to do so.

15.6 The Company will supply, on receipt of a written demand, details of the credit reference or the fraud prevention agencies used by the Company to obtain information about You and copies of the information the Company holds about You. The Company may charge a reasonable administration fee for providing such information.

15.7 You warrant, undertake and agree that You will procure from Your employees and other personnel such consents for the use of Personal Data as may be necessary to enable the Company to use such data for the purposes described in this Clause 15.

15.8 Only if requested by You will the Company include Your name, address and telephone number in the appropriate telephone directory or allow Your number to be available to any directory enquiry service.

15.9 Should You require any entry in the appropriate telephone directory which includes additional information about You, You must advise the Company on the Order Form and pay any additional reasonable charges associated with such entry and execute any additional contract relating to such entry before it will be made.

16. ANTI-BRIBERY

16.1 You will ensure that Your officers, employees, agents and any other persons who perform any services on Your behalf in connection with the Contract shall:

- 16.1.1 comply with all applicable Anti-Bribery Laws and not cause the Company to breach any Anti-Bribery Laws;
- 16.1.2 not offer, promise, give, request, agree to receive, receive or accept a bribe or financial or other advantage or commit any corrupt act; and
- 16.1.3 comply with the Company's Ethics and Anti-Bribery Policy (available on demand from the Company) as the Company may update from time to time.

17. FORCE MAJEURE

17.1 No Party to the Contract will be liable for any failure or delay in performing its obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

17.2 If for any reason the Company is unable to provide the Fixed Line Services for a continuous period of 3 days or more due to a technical failure (which for the purposes of this Clause will include power failure, System improvement, repair, modification or otherwise) and the Service Provider offers the Company a similar benefit, the Company will allow You a credit representing one half of the line rental for each full day that the Fixed Line Services were not available.

18. CHANGES TO THESE CONDITIONS AND THE CONTRACT AND CONFLICT

18.1 The Company may change these Terms and Conditions and/or any Service Specific Conditions at any time subject to the following provisions.

18.2 If the Company wishes to change these Terms and Conditions and/or any Specific Conditions it will publish any such changes on its website or at such other address as it notifies to You from time to time:

- 18.2.1 for any terms which may have a material adverse effect on You, at least 30 days before such change is due to take effect; and
- 18.2.2 for all other changes, at least one day before such change is due to take effect.

18.3 If You wish to object to any proposed change notified under sub-Clause 18.2.1 You must notify the Company in writing at least 21 days before such change is due to take effect, failing which, You will be deemed to have accepted such change.

18.4 For the avoidance of doubt, the service by the Company of any notice in accordance with sub-Clause 18.2.1 shall not constitute either acceptance of or an admission by the Company that any proposed change is of material detriment to You, nor shall the service of notice by You under Clause 18.3 constitute or be deemed to constitute evidence that the relevant change is of material detriment to You.

18.5.1 If there is a conflict between these Terms and Conditions and the Order Form, the Order Form will prevail.

18.5.2 If there is a conflict between these Terms and Conditions and any Specific Conditions, the Specific Conditions will prevail.

19. SECURITY

19.1 You acknowledge that access to the Service and the System involves the use of user names, passwords and PINs and that You may be offered other devices to ensure Your security and safety. You accept that the Company will have no liability if You do not keep such devices properly and fully controlled (and where necessary changed) at all times and if You fail to notify the Company if any breach of that control occurs.

19.2 You accept and acknowledge that:

- 19.2.1 the Company cannot provide a guarantee that the Fixed Line Services or the System can be secure at all times and that they will not be subject to internal or external threats which may affect the security of Your information and You agree to take such steps as are reasonably necessary to protect information which You access using the Fixed Line Services or the System; and
- 19.2.2 the Company has no control over the manner in which You configure or operate the Equipment and/or use the Service and any features it or they offer.

20. LIABILITY AND INSURANCE

20.1 The Company will indemnify You for personal injury or death caused by the negligence of its employees in connection with the performance of their duties under the Contract or by defects in the services it supplies.

20.2 The Company will indemnify You for direct damage to tangible property caused by the negligence of its employees in connection with the performance of their duties under the Contract or by defects in the Fixed Line Services. The Company's total liability under this Clause will be limited to £500 for any one event or series of connected events.

20.3 Save in respect of claims for death or personal injury arising from the Company's negligence, in no event will the Company be liable for any damages resulting from loss of data or use, lost profits, loss of anticipated savings, or for any damages that are an indirect or secondary consequence of any act or omission of the Company, its servants, agents or employees whether such damages were reasonably foreseeable or actually foreseen.

20.4 Except as provided above in the case of personal injury, death and damage to tangible property, the Company's maximum liability to You under the Contract or otherwise for any cause whatsoever (whether in the form of the additional cost of remedial services or otherwise) will be for direct costs and damages only and will be limited to the greater of:

- 20.4.1 the sum for which the Company carries product liability insurance cover (if any); or
- 20.4.2 a sum equivalent to the price paid to the Company by You for the Service that is the subject of Your claim, plus damages limited to 50% of the same amount for any additional costs directly, reasonably and necessarily incurred by You in obtaining alternative

products and/or services.

20.5 The investigation of any issue by the Company will not amount to an admission that that issue arose as a fault of the Company nor that the Company in any way accepts any liability for such issue.

20.6 You accept and agree that the Company will have no liability if:

20.6.1 for reasons beyond its control the speed of any broadband service supplied with the Fixed Line Services does not match the speed advertised by the Company at any time;

20.6.2 the telephone number which the Company has allocated to You is withdrawn by OFCOM or by the Carrier unless such withdrawal is due to the negligence of the Company; or

20.6.3 the systems and equipment You use or any of them is affected by any virus, Trojan, worm or other similar program intended to cause harm or damage to You, the System or to any third party.

20.7 The Parties acknowledge and agree that the limitations contained in this Clause 20 are reasonable in the light of all the circumstances.

21. NO WAIVER

No failure or delay by either Party in exercising any of its rights under the Contract will be deemed to be a waiver of that right, and no waiver by either Party of a breach of any provision of the Contract will be deemed to be a waiver of any subsequent breach of the same or any other provision.

22. SET-OFF

Only the Company is entitled to set-off any sums in any manner from payments due or sums received in respect of any claim under the Contract or any other agreement at any time.

23. ASSIGNMENT AND SUB-CONTRACTING

23.1 Subject to Clause 23.2, the Contract is personal to the Parties. Neither Party may assign, mortgage, charge, sub-license or otherwise delegate any of its rights hereunder, or sub-contract or otherwise delegate any of its obligations hereunder without the written consent of the other Party, such consent not to be unreasonably withheld.

23.2 The Company will be entitled to perform any of the obligations undertaken by it through any other member of its Group or through suitably qualified and skilled sub-contractors. Any act or omission of such other member or sub-contractor will, for the purposes of the Contract, be deemed to be an act or omission of the Company.

24. RELATIONSHIP OF THE PARTIES

Nothing in the Contract will constitute or be deemed to constitute a partnership, joint venture, agency or other fiduciary relationship between the Parties other than the contractual relationship expressly provided for in the Contract.

25. NON-SOLICITATION

You will not, for the term of this Agreement and any extension thereof and for a period of 12 months after its

termination or expiry, employ or contract the services of any person who is or was employed or otherwise engaged by the Company at any time in relation to the services provided under the Contract.

26. THIRD PARTY RIGHTS

26.1 No part of the Contract is intended to confer rights on any third parties and accordingly the Contracts (Rights of Third Parties) Act 1999 will not apply to the Contract.

26.2 The Contract will continue and be binding on the transferees, successors and assigns of either Party as required.

27. NOTICES

27.1 All notices under the Contract will be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.

27.2 Notices will be deemed to have been duly given:

27.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or

27.2.2 when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or

27.2.3 on the fifth Business Day following mailing, if mailed by national ordinary mail, postage prepaid.

In each case notices will be addressed to the most recent address, e-mail address or facsimile number notified to the other Party.

28. ENTIRE AGREEMENT

28.1 The Contract contains the entire agreement between the Parties with respect to its subject matter and may not be modified except by an instrument in writing signed by the duly authorised representatives of the Parties.

28.2 Each Party acknowledges that, in agreeing the Contract, it does not rely on any representation, warranty or other provision except as expressly provided in the Contract, and all conditions, warranties or other terms implied by statute or common law are excluded to the fullest extent permitted by law.

28.3 All savings and estimates, illustrations, samples or descriptive materials provided by the Company will, in all respects, be treated as approximations unless the Company has accepted otherwise in writing.

29. SEVERANCE

In the event that one or more of the provisions of the Contract is found to be unlawful, invalid or otherwise unenforceable, that/those provision(s) will be deemed severed from the remainder of the Contract. The remainder of the Contract will be valid and enforceable.

30. DISPUTES AND COMPLAINTS

30.1 If You have cause to dispute or complain about the services or products offered by the Company You should address such matters to the Company as soon as You become aware of them by email to:

info@swiftcomm.co.uk

30.2 The Company will respond to any such email within 1 Business Day of receiving it and will provide a

substantive response to the issue raised within 5 Business Days.

30.3 You agree to respond to any request for further information required by the Company to address the issue within 3 Working Days of such request.

30.4 If the response of the Company does not provide a satisfactory conclusion then You may invoke the Dispute and Complaint Handling Policy by giving the Company notice by email that You wish to do so and the Company will invoke such Policy within 3 days of such request.

30.5 The Company may invoke the Dispute and Complaint Handling Policy at any time after it has received notice of a dispute or complaint from You even if it has not provided the substantive response referred to in Clause 30.2.

31. INVESTIGATIONS

31.1 Both Parties agree fully to co-operate with all relevant authorities (including but not limited to the Police, HMRC, Trading Standards, the Information Commissioner and/or OFCOM and their successors from time to time) in connection with any misuse or suspected misuse of the Fixed Line Services and the System.

31.2 You agree that the Company may co-operate with any such relevant authority and with any other telecommunications operators in connection with any misuse or suspected misuse or suspected fraudulent activity related to or connected with the Fixed Line Services and agree, without prejudice to the generality of the foregoing, that the Company may divulge any information which the Company holds which may be relevant to any investigation, including Your name, address and account information relating to such third parties.

32. LAW AND JURISDICTION

32.1 The Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) will be governed by, and construed in accordance with, the laws of England and Wales.

32.2 Any dispute, controversy, proceedings or claim between the Parties relating to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) will fall within the jurisdiction of the courts of England and Wales.

33. DEFINITIONS

In these Terms and Conditions, the words and phrases contained in Appendix 1 will have the meanings ascribed to them therein.

APPENDIX 1 DEFINITIONS

"Account" means the account which the Company creates to record details of Your use of the System and the services You take from the Company.

"Anti-Bribery Laws" means the Bribery Act and any and all statutes, statutory instruments, byelaws, orders, directives, treaties, decrees and laws which relate to the elimination of bribery and/or corruption.

"Bribery Act" means the Bribery Act 2010.

"Bar" means the act of barring You from using certain services on the Equipment.

"Business Day" means any and all days between Monday and Friday in any week but excluding English bank holidays or public holidays.

"Call Commission" means such sums payable by the Company to You in accordance with Clause 10.

"Carrier" means the relevant third party public telecommunications operator or third party network service provider.

"Charges" means the charges payable by You for the Equipment and Fixed Line Services at the rates set out in the Tariff, including but not limited to any call charge, access charge, connection charge, minimum charge, value added service charge and/or early termination charge.

"Commencement Date" means the commencement date of the Minimum Term of the Maintenance Services, being the date of delivery of the relevant Equipment or such other date as specified on the Order Form.

"Confidential Information" means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with the Contract (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such).

"Connection Date" means the date when the Carrier has agreed and can commence provision of the Fixed Line Services to You.

"Company" means Swift Communications Limited, a company registered in England and Wales under company number 09950233 and whose registered office is at 22 Brookside Industrial Estate, Sawtry, Huntingdon PE28 5SB.

"Contract" means the agreement between You and the Company for the provision of the services incorporating these Terms and Conditions, the Order Form, any Specific Conditions and/or Promotional Terms and any other document incorporated by reference in the Contract.

"Dispute and Complaint Handling Policy" means the policy for handling disputes and complaints published by the Company on its website as amended from time to time.

"End User" means a user of the Fixed Line Services.

"Equipment" means a device connected to the System and/or any accessories and/or equipment supplied with it or them.

"Fair Use Policy" means the policy or policies published from time to time by the Company governing the use of the Services.

"Fixed Line Service/s" means the network services identified on the Order Form and provided by means of the System offered by the Company.

"General Conditions" means the general conditions of entitlement set by OFCOM, in accordance with section 45 of the Communications Act 2003, as may be amended, modified or replaced from time to time.

"Group" means together a person, its Parent Undertakings, its Subsidiary Undertakings and the Subsidiary Undertakings of any of its Parent Undertakings from time to time.

"Installation" means the physical installation of Equipment.

"Maintenance Services" means the maintenance and other regular services the Company agrees to provide to You which are noted in the Order Form

"Minimum Term" means the minimum contract period for Maintenance Services and/or Fixed Line Services due to commence on the Commencement Date for Maintenance Services and/or the Connection Date for Fixed Line Services (as the case may be) and expiring on the day at the end of the minimum period set out on the Order Form.

"OFCOM" means the Office of Communications and/or any successor body.

"Order Form" means the form to which these Terms and Conditions are attached or which is expressed to be subject to these Terms and Conditions and which sets out the detail of the order You have made from the Company.

"Parent Undertaking" has the meaning given to it in section 1162 of the Companies Act 2006.

"Party" means the Company or You, and **"Parties"** shall refer to both of them.

"Payment Date" means the date determined by the Company on which the Company's invoices fall due for payment.

"Personal Data" has the meaning given to it in the Data Protection Act 1998.

"Promotional Terms" means any additional terms which are to apply in relation to the Charges payable by You under the Contract (for any particular goods or services to be provided thereunder) and which may be specified on the Order Form and/or notified by the Company in writing to You in relation to the relevant goods and/or services at the time the relevant Order Form was submitted.

"Regulations" means the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 (as amended from time to time).

"Relevant Laws" means any statute, regulation, byelaw, ordinance or subordinate legislation which is in force for the time being to which a Party is subject; the common law as applicable to the Parties (or any one of them); any binding court order, judgment or decree applicable to the Parties (or any one of them); and any applicable industry code, policy, guidance, standard or accreditation terms (i) enforceable by law which is in force for the time being and/or (ii) stipulated by any regulatory authority to which a Party is subject, in each case, for the time being.

"Premium Service" means any or all of the following:

- (i) any service providing live or recorded telephone information and/or entertainment and/or similar services for which additional charges are made; or
- (ii) any service which offers a non-geographic telephone number and any inbound calls to such number.

"Service Rules" means the rules for the use of the Service which appear in Appendix 2.

"Small Business Customer" means a customer who has been identified on the Order Form as being a customer who: (i) is not a communications provider; and (ii) has 10 or fewer workers (whether as employees or volunteers or otherwise).

"Specific Conditions" means any additional terms and conditions which are to apply to the Contract as specified on the Order Form or these Terms and Conditions in respect of specific services.

"Software" means software provided by the Company to You to enable You to use the Fixed Line Services.

"Subsidiary Undertaking" has the meaning given to it in section 1162 of the Companies Act 2006.

"System" means the public telecommunications systems that the Company makes available to You.

"Tariff" means the Company's tariff for each of the services which is provided to You and/or set out at www.swiftcomm.co.uk or at such other web address as is notified to You by the Company from time to time and/or used by the Company to calculate the Charges.

"You/Your" means the person, firm or company specified on the Order Form as the principal entity taking services from the Company and any other person appearing to act within that person's, firm's or company's authority and includes where relevant Your permitted assigns.

APPENDIX 2 SERVICE RULES

1. Not to use the Service in any way which may allow the communication or publication of any material or information which is or is in the nature of a hoax call, is of a defamatory, offensive, abusive, indecent, obscene or menacing nature, is designed to send or procure the sending of any unsolicited advertising or promotional material or which does or is intended to cause annoyance, nuisance, inconvenience or worry to any person, firm or company including (but not by way of limitation) the emergency services or which in the Company's sole opinion may bring its name into disrepute or which in any way causes damage to or disruption to the Fixed Line Services;
2. Not to use the Service for the purpose of or in a manner which may infringe the Intellectual Property Rights or other rights of any person, firm or company;
3. To ensure at all times that Your telecommunications apparatus is at all times when using the Fixed Line Services in good working order and in conformity with any relevant regulatory standards or approvals and Relevant Laws for the item as from time to time applicable;
4. To provide the Company with all such information as it reasonably requests relating to Your telecommunications apparatus;
5. To ensure that, at all times when using the System, that You have in place proper and effective devices and software to prevent attacks from viruses, worms, Trojans and/or any calls generated by rogue dialers or hackers;
6. To use all reasonable endeavors to ensure that the number of telephone calls made to the number allocated to You by the Company does not significantly exceed Your capacity to deal with such calls or cause congestion on the network. If the Company notifies You of the occurrence of any such congestion or misuse, You will immediately take all reasonable steps to prevent such congestion and/or misuse and accept that failure to do

so may be treated by the Company as a material breach for the purposes of the Contract;

7. If You receive only broadband services from the Company, You will pay for any call charges and/or line rental due and owing to Your fixed line service provider;

8. You acknowledge and agree that Your use of any broadband services and the speed and quality of such services depends in part on the performance of the devices You use to connect to such services;

9. You will not use the System for the transmission of spam, bulk emails, unsolicited communication or any other similar nuisance and You agree that the Company may treat any attempt to make such transmission as a material breach for the purposes of the Contract;

10. You understand and agree that the Company has no responsibility for Your use of the System and any transactions which You undertake using it.