

**ABBEEY ICT IT/TELECOMS SUPPORT AGREEMENT
TERMS AND CONDITIONS**

1. DEFINITIONS

- a. The “Company” means Abbey ICT Limited.
- b. The “Commencement Date” means the date the Company commences the provision of Services under this Agreement.
- c. The “Customer” means the person or firm who purchases the Services from the Company under this Agreement.
- d. The “Supported Items” means the items which are set out on the Cover Sheet and any additional items for which the Customer requests support under clause 9.f and which the Company agrees to support.
- e. The “Support Charge” means the amount exclusive of VAT stated on the Cover Sheet due and payable in consideration of the Services (being an annual rate unless otherwise stated) together with any rates applicable to Services provided outside Working Hours and any additional amounts chargeable under clause 9.
- f. The “Services” means the Hardware or Support and any other services provided by the Company to the Customer on site or remotely for the duration of this Agreement, as referred to on the Cover Sheet.
- g. “Service Level” means the target time to manage and resolve a reported incident as detailed in clause 4.
- h. “Consumables” mean ribbons, fuser oil units, drum kits, maintenance kits, daisy wheels, UPS batteries, standard batteries and any like items which are deemed by the manufacturer of such items to be the responsibility of the Customer to replace.
- i. “Service Need” means any failure or malfunction of Supported Items requiring repair or maintenance or servicing.
- j. “Additional Services” means any other service, changes or requests not included within the Services defined on the Cover Sheet.
- k. “Working Hours” means 9.00am to 5.00pm Monday to Friday excluding public holidays.
- l. “Customer’s Site” means the Customer’s address as stated on the Cover Sheet or such other address as may be agreed in writing by the Company from time to time.
- m. “Business Day” means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.
- n. “Cover Sheet” is the list of the Supported Items showing the Services selected by the Customer with the associated costs and applicable term.
- o. “Company Materials” has the meaning set out in clause 8.a.vi.
- p. “Customer Network” means the Customer’s physical network and server infrastructure, including (if any) telecommunications equipment, servers, switches, routers, firewalls, plus business systems or applications software.

2. SERVICES

- a. Subject to the Customer at all relevant times complying with its obligations as set out in clause 8, the Company shall provide the Services to the Customer during Working Hours.
- b. Details of what is included in the scope of Services together with any specific exclusions therefrom, in addition to the exclusions stated in clause 7.e, are set out on the Cover Sheet.
- c. The Company warrants to the Customer that the Services will be provided using reasonable care and skill.
- d. Subject to the Customer complying with its obligations as set out in clause 8, the Company shall use all reasonable endeavours to meet any agreed target response times for the Services, as laid out in clause 4, but any such targets shall be estimates only and time shall not be of the essence for the performance of the Services.
- e. Upon being notified of a Service Need, unless the Service Need can be resolved remotely or by other means at the Company’s absolute discretion, the Company will use all reasonable endeavours to ensure that an engineer is on the Customer’s Site during the next Business Day provided the Cover Sheet includes on site works.
- f. From the Commencement Date and, where applicable, throughout the provision of the Services, the Company shall provide the Customer upon request with contact details for the service desk in accordance with clause 3.
- g. The Company shall use reasonable endeavours to remedy a Service Need and in accordance with the relevant Service Level using remote support under clause 6.
- h. The Company shall use reasonable endeavours to facilitate on behalf of the Customer any claim made under a third party supplier warranty in relation to any software or hardware item which is not a Supported Item but the Company may not be held responsible for the third party’s supplier’s response.
- i. Without prejudice to its other rights and remedies, to the extent a failure by the Customer to perform any of its obligations under clause 8 prevents or delays the Company from being able to supply the Services, the Company shall be relieved from its obligations.

3. SERVICE DESK

- a. The service desk provides a single point of contact for all Customer enquiries or queries raised by email or telephone and the logging of all Incidents within the Company’s service management system.
- b. The service desk will provide support to the Customer during the Working Hours, or where applicable, the relevant support hours as set out in the Cover Sheet. Where no support hours are specified, Working Hours shall apply.
- c. The Customer must when contacting the service desk provide, where available, details of the following: contact information, details of Supported Items, a full description of the Service Need including software being used and any error messages, serial number or make and model of the Supported Item.
- d. The service desk will aim to resolve the Service Need as stated in clause 5 however if this is not possible, and the Cover Sheet includes onsite works, the Company will schedule on site works if it deems it necessary to resolve the Service Need.

4. SERVICE LEVEL

Priority	Description	Target response time	Target resolution time

Priority 1	The entire Supported Items are completely inaccessible. Priority 1 incidents shall be reported by telephone only.	Within two Working Hours.	Four Working Hours. Continuous effort after initial response and with Customer co-operation.
Priority 2	Operation of the Supported Items is severely degraded, or major components are not operational, and work cannot reasonably continue.	Within four Working Hours.	Within two Business Days after initial response.
Priority 3	Certain non-essential features of the Supported Items are impaired, while most major components remain functional.	Within 12 Working Hours.	Within seven Business Days after initial response.
Priority 4	Errors that are non-disabling or cosmetic and have little or no impact on the normal operation of the Supported Items.	Within 24 Working Hours.	When reasonably possible.

5. SERVICE NEED MANAGEMENT

- a. Where the Customer notifies the Supplier of a Service Need in relation to the Supported Item, the Company shall log, process and manage such Service Needs through its service desk.
- b. Third party supplier escalation shall be undertaken, where applicable, in accordance with the applicable Service Levels, provided always that the Service Need is not within any of the exclusions or is outside of the scope of the Services as further detailed in clause 7.e below.
- c. All Service Need resolutions are verified with the Customer before the Service Need is deemed resolved.
- d. Where support is deemed outside of the scope of the Services, the Company shall use reasonable endeavours to respond to such support requests, subject to receipt of a purchase order.

6. REMOTE SUPPORT

- a. The service desk shall provide remote assistance using a remote access toolkit reducing the requirement for on site visits.
- b. The Company will initially aim to resolve the Service Need via the service desk. Where this proves not to be possible, the Service Need will be escalated to the appropriate resource.
- c. Where appropriate the Company may request the assistance of the Customer to diagnose and resolve Service Needs and service requests.
- d. Except where the Company deems necessary in accordance with clause 3.d above, attendance at the Customer's Site of an engineer is not included within the Services.
- e. If the Customer requests an engineer to attend site, this shall be subject to the standard schedule of rates applicable at the time and will be charged separately on a time and materials basis.
- f. If the Supported Items are supplied with remote support from a third party supplier e.g. Cloud Telephony or Microsoft 365 services, the Company will use all reasonable endeavours to work within their terms and conditions.

7. SUPPORTED ITEMS

- a. Standard Services are the services required to return Supported Items to a functional state following a reported Service Need request, provided they are stated on the Cover Sheet and the Supported Items in question are included within the items specified in clauses 7.a to 7.c below inclusive and are not excluded under clause 7.e. The operating system software which the Company is currently able to support is as follows:
 - i. Microsoft server operating systems within standard or extended support as further defined at: <https://support.microsoft.com/enus/lifecycle/selectindex>;
 - ii. Apple Mac OS, currently supported version from a valid third party supplier;
 - iii. Any systems deployed via the Company and with a valid third party supplier warranty;
 - iv. Any of the Company's products and services purchased by the Customer and as set out in the Cover Sheet; and
 - v. Other operating systems as further detailed on the Cover Sheet.

b. Where a Supported Item is an application the Company will troubleshoot to identify if the Service Need is an accessibility or functional issue, and escalate to the appropriate third party, in accordance with the Service Levels on applicable applications, subject to a valid software licence where appropriate purchased through the Company and as set out on the Cover Sheet. Any functional changes or customisation carried out by the Customer are excluded. The following applications where installed upon the local device and not streamed or cloud based, shall be supported by the Company

1. Microsoft Office applications within standard or extended support as further defined at: <https://support.microsoft.com/enus/lifecycle/selectindex>; where purchased through the Company
 2. any applications deployed via the Company and with a valid third party supplier warranty; and
 3. any of the Company's products and services purchased by the Customer and as set out on the Cover Sheet;
- but any other applications shall only be supported on a reasonable endeavours' basis and the Company shall be entitled to make an additional charge for such support in accordance with the Company's standard schedule of rates, applicable at the time.
- c. Hardware maintenance services
 - i. Hardware maintenance services are the Services required to return failed hardware items, which are Supported Items, to a functional state, following a reported Service Need request, provided that none of the exclusions as stated in clause 7.e apply.

- ii. Hardware maintenance services covers the hardware items and labour required to return the Supported Items into service in line with clause 7.c.i
 - iii. It is specifically provided that the Company may employ refurbished (not new) parts and equipment in order to resolve a Service Need.
- d. Third Party Warranty Support
- i. Where the Supported Item has a valid third-party supplier warranty and an appropriate third-party support contract in place, the Company shall facilitate on behalf of the Customer any claim made under the third-party supplier warranty and/or support contract, in respect of a Service Need identified and logged in accordance with clause 5.a above but the Company may not be held responsible for the third party's supplier's response.
 - ii. Where the Supported Item does not have a valid third party supplier warranty or support contract, or the third party supplier no longer provides appropriate support, the Company shall use reasonable endeavours to respond to a Service Need but this may incur additional charges and shall be subject to receipt of an appropriate purchase order.
- e. Exclusions
- i. The Services and the associated Support Charges shall not include the following:
 - ii. systems engineering services, programming, reprogramming or reconfiguration of the Supported Items and operating procedures to provide improved or modified services or facilities;
 - iii. development, modification or correction of any software used in connection with the Supported Items or provision of the Services;
 - iv. recovery or reconstructions of any data or programmes lost or corrupted as a result of any defect in the Supported Items;
 - v. electrical work external to the Supported Items or the support of accessories, ancillary items, including but not limited to, cabinets, infrastructure cabling or other devices not identified in the Cover Sheet;
 - vi. any Supported Item which the Company reasonably considers to be end of life or beyond repair or for which consumables, spare parts, drivers or updates are not readily available or require essential maintenance not included in the Services;
 - vii. defects in design, manufacture, installation or performance of the Supported Items (except in relation to defects in installation, where the Company has carried out installation of the Supported Items);
 - viii. supply of consumables and/or spare parts unless otherwise agreed in writing by the Company;
 - ix. maintenance or repair of any power supply (including without limitation, any battery backup and/or uninterrupted power supply) to the Supported Items;
 - x. If the Company does agree to undertake any of the services set out in clause e above, the Company may charge the Customer for providing such services, which shall be calculated in accordance with the Company's standard schedule of rates, applicable at the time, together with any replacement parts and other costs and expenses reasonably incurred. Such services shall not be counted or considered in relation to performance of any Service Levels.
8. CUSTOMER OBLIGATIONS IN RELATION TO SERVICES
- a. The Customer shall:
- i. co-operate with the Company in all matters relating to the Services;
 - ii. provide the Company, its employees, agents and subcontractors, with access to the Customer's premises, office accommodation and other facilities as reasonably required by the Company to provide the Services;
 - iii. provide the Company with such information as the Company may reasonably require in order to supply the Services, and ensure that such information is complete and accurate in all material respects;
 - iv. prepare the Customer's premises for the supply of the Services;
 - v. obtain and maintain all necessary licences, permissions and consents which may be required for the Services before the date on which the Services are to start;
 - vi. keep any materials, equipment, documents and other property of the Company ("**Company Materials**") at the Customer's premises in safe custody at its own risk until returned to the Company, and not dispose of or use the Company Materials other than in accordance with the Company's written instructions;
 - vii. ensure that all data held on the Customer's network and Supported Items is adequately backed up and keep full security copies of the Customer's programmes, data bases and computer records and maintain a disaster recovery process;
 - viii. be responsible for data cleaning, the integrity of any data provided to the Company and for all direct and indirect consequences of any errors in such data;
 - ix. put in place and maintain up to date security measures to protect the Customer network and Supported Items from viruses, harmful code, malicious damage and unauthorised direct and remote access to the Customer Network and Supported Items in accordance with good industry practice;
 - x. (save as permitted by clause 6.c above, not attempt to adjust, modify, configure, repair or maintain the Customer network and/or Supported Items and shall not request, permit or authorise anyone other than the Company to carry out any adjustments, modifications, configurations, repairs or maintenance of the Customer network and/or Supported Items;
 - xi. The Customer shall promptly implement recommendations by the Company in respect to remedial actions, whether prior to or following the logging of a Service Need request and confirms that it owns or will obtain valid licence agreements for all software which are necessary to grant the Company access to and use of the software for the purpose of fulfilling its obligations under this Agreement.
 - xii. The Customer shall inform the Company of any changes to its applications, underlying operating system and/or maintenance and support on services not provided by the Company, which may affect the validity of the data to be obtained by the Company during an audit.
9. PAYMENT
- a. The Support Charge is due and payable in advance before commencement of the Services upon presentation of the Company's invoice therefor.
 - b. Interest shall be due and payable on all overdue amounts at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.
 - c. VAT where appropriate is payable in addition on all charges referred to in clause 2.
 - d. For the avoidance of doubt where the Customer chooses to pay other than by direct debit, the Company shall be entitled to charge an additional fee of 5% of the Support Charge.
 - e. Where the Customer has given an appropriate direct debit instruction to its bank, the Customer authorises the Company to debit its bank account (without the Company having to give the Customer any advance notification that it is doing so), with an amount equal to the outstanding balance on the Customer's sales ledger account with the Company, during any period, where the Customer has failed to pay the Company on the due date as indicated on the Company's invoice supplied to the Customer.

f. The Customer acknowledges that by requesting additional services or additional items to be supported after the commencement of this Agreement from the Company it will incur additional charges calculated according to the Company's current scale of charges and on a pro-rata basis according to the period of time for which such additional services or support are required. It also acknowledges and intends that such services or support will be required throughout the whole of any initial term (or any subsequent term) of this Agreement then remaining. In the event that the Customer wishes to terminate such additional services or support at any time, three (3) months' notice of termination shall be provided to the Company by the Customer who shall remain liable for all charges applicable to these additional services or support during this notice period.

g. The Company reserves the right to make additional charges at the appropriate rate for all attendances on the Customer or to the Customer's site and any telephone calls made to the Customer outside Working Hours. Details of the Company's charges are available from the Company upon request.

h. Without prejudice to any other right or remedy that the Company may have, if the Customer fails to pay on the due date, the Company may suspend its performance of all Services until payment has been made in full.

10. CHANGE OF LOCATION

a. The Customer will not make any movement of the Serviced Items, nor remove the Supported Items from the contracted location i.e. the site address details shown on the Cover Sheet without prior written consent of the Company, which consent shall not be unreasonably withheld.

b. Where the Company consents to such relocation, the Company shall provide a relocation and installation service, the cost of which will be chargeable to the Customer in accordance with the Company's current scale of charges.

11. PRICE ADJUSTMENT

a. Without prejudice to clauses 12.b and 19, the Company may from time to time adjust the Support Charge by advance notification in writing. Such adjustments shall be notified to the Customer in writing and not be made at less than yearly intervals.

b. Notwithstanding clause 12, the Company reserves the right to increase the Support Charge at yearly intervals by the percentage increase (if any) in the rate of inflation during the previous 12 months as shown by The Consumer Prices Index including owner occupiers' housing costs (CPIH) published by the Office for National Statistics. Any such increase shall be notified to the Customer via invoice.

12. DURATION OF SERVICES

a. The Services will be provided during the initial term of this Agreement as accepted by the Customer. If the number of years has been left blank on the cover sheet of this Agreement, the initial term shall be deemed to be one year. This Agreement shall commence on the date of acceptance by the Company and shall continue unless and until terminated in accordance with clause 13.

b. Should any Supported Item become obsolete, the Company may notify the Customer that such Supported Item shall no longer be covered by this Agreement from the date the Supported Item becomes obsolete or such other date as is specified by the Company in its notice. In that case the Company shall reduce the Support Charge from that date by such amount as it reasonably considers fair and shall notify the Customer accordingly of the reduced Support Charge payable.

c. At any time during the remainder of the term of this Agreement, should the Customer replace the obsolete Supported Item with the relevant upgrade recommended by the manufacturer or the supplier, the Customer may request cover under this Agreement for such upgrade by notice to the Company. If the Company accepts the Customer's request, it shall notify the Customer of the date cover for the upgrade will commence under this Agreement and of any increase required in the Support Charge payable.

13. TERMINATION & CONTINUATION

a. Without prejudice to any other claims or remedies which the Company may have against the Customer, the Company may (without incurring any liability to the Customer) terminate this Agreement at any time by not less than 90 days written notice or immediately by written notice in any of the following circumstances:

i. if the Customer fails to comply with any of the terms of this Agreement (including failure to pay any charges when due) or with the terms of any other agreement made between the Customer and either the Company or a distributor or representative of the Company; or

ii. if the Customer makes or offers to make any arrangement or composition with creditors or commits an act of bankruptcy or if any petition or receiving order in bankruptcy is presented or made against the Customer, or if the Customer is a limited company, any resolution to wind up that company is passed, the company enters administration or if a receiver or administrative receiver is appointed over the whole or any part of such company's assets or if the Company reasonably anticipates that any of the events in this clause 13.a.ii are imminent; or

iii. if in the Company's opinion it is no longer commercially viable for the Company to continue to provide the Services due to the manufacturer having withdrawn its support for some or all of the Supported Items; or

iv. if the Customer does or allows to be done anything which in the opinion of the Company will or may have the effect of jeopardising the operation of the Services.

b.

i. The Customer may terminate this Agreement by giving the Company written notice of its intention to terminate within the thirty day period preceding the expiry of the initial term in which case clause 13.b.iv will apply.

ii. The Customer may also terminate this Agreement by giving the Company written notice of its intention to terminate before the beginning of the thirty day period preceding the expiry of the initial term referred to in clause 13.b.i in which case clause 13.b.v will apply.

iii. If the Customer fails to serve notice within the 30 day period referred to in clause 13.b.i or before the beginning of that period as referred to in clause 13.b.ii, this Agreement will automatically continue in force for consecutive periods of one year, or, in the case of an agreement which has an initial term of 3 or 5 years or such other term as is longer than one year, such longer period as is equivalent to such initial term, unless and until written notice is served within the thirty day period preceding the expiry date of any subsequent term or before the beginning of that period or this Agreement is otherwise validly terminated in accordance with its terms;

iv. In the case of termination of this Agreement by the Customer within the 30 day period referred to in clause 13.b.i, termination will be effective 60 days from the end of the month in which the Company receives notice of the Customer's intention to terminate and the Customer will continue to be liable for Support Charges and any other amounts accruing to the Company during such 60 day period;

v. In the case of termination of this Agreement by the Customer before the beginning of the 30 day period as referred to in clause 13.b.ii, termination will be effective 90 days from the expiry date of the initial term or any subsequent term (as the case may be) and the Customer will continue to be liable for Support Charges and any other amounts accruing to the Company during such 90 day period;

vi. the Customer may at any time give notice of immediate termination of this Agreement provided that a sum equivalent to that which the Company would be entitled to for providing the Services during the 90 day period referred to in clause 13.b.v, plus the annual amount of the Support Charge divided by 12 and then multiplied by the number of months and part months of the term left to run between the date of the Company's receipt of the Customer's notice of termination and the expiry date of the relevant term must be paid for by the Customer, such payment to accompany the said notice; and

vii. all notices being served by the Customer under this clause 13.b are only valid if they are signed by an authorised representative of the Customer and sent by recorded delivery to the Company's registered office address;

c. PROVIDED THAT notwithstanding the termination of this Agreement in accordance with this clause 13.b, all other charges due under this Agreement shall remain payable by the Customer to the extent they are not included in the sums payable under clauses 13.b.iv to 13.b.vi inclusive.

d. If a modem or other equipment has been installed by the Company on the Customer's network to enable the Company to perform the Services remotely, the Customer shall allow the Company to attend site for the removal of such equipment at any time following termination of this Agreement. Should the Customer refuse the Company's request to attend site to remove its equipment, the Company shall be indemnified by the Customer against any loss, liability, cost and expense the Company may suffer or incur due to non-return of the equipment including without limitation any charges imposed by the Company's own suppliers.

14. LIMITATION OF LIABILITY

a. Note: This Condition does not apply to death or personal injury caused by the negligence of the Company or to any fraud or fraudulent misrepresentation by the Company.

i. So far as concerns loss or damage suffered by the Customer, the Company, its servants or agents shall be liable to the Customer (and then only to the limited extent set out below) only if and so far as such loss or damage is caused by the negligence of the Company's servants or agents acting within the course of their employment.

ii. The Company and its servants or agents shall not be responsible to the Customer in any circumstances in respect of any loss or damage suffered by the Customer unless written notice is received by the Company within one month of the alleged loss or damage.

iii. If, whether pursuant to the provisions set out herein or otherwise, any liability on the part of the Company, its servants or agents shall arise (whether under the express or implied terms of this Agreement, or at common law, in negligence or in any other way) for any loss or damage to the Customer arising out of or connected with the provision or purported provision of the Services, such liability shall in all cases whatever be limited to the payment by the Company and/or by or on behalf of its servants or agents by way of damages of a sum not exceeding the annual amount of the Support Charge in respect of all and any claims arising during any one calendar year. The Company will not be liable for any loss of business, loss of profits or indirect or consequential loss.

iv. In the event of any third party provider of goods or services to the Customer making a claim against the Company arising out of the subject-matter of this Agreement, whether arising out of any negligence, breach of duty or other wrongful act or omission by the Company, its servants or agents, or otherwise, in respect of loss or damage outside or beyond the liability of the Company to the Customer, as limited herein, then the Customer shall indemnify the Company against any such claim (and all costs incurred therein) to the extent the value of any such claim exceeds the total limit of liability of the Company to the Customer as set out in clause 14.a.iii

v. All warranties, conditions and other terms implied by statute or common law are, to the fullest extent permitted by law, excluded from this Agreement.

15. NO FAULT FOUND

a. Where the Customer reports an apparent fault on a Supported Item to the Company and, upon investigation by the Company the Supported Item or its installation is found not to be defective, the Company reserves the right to make a charge for the investigation and/or any call-out. Any such charge will be at the Company's normal rates.

16. ASSIGNMENT

a. This Agreement is personal to the Customer and may not be assigned or transferred without the prior written consent of the Company. The Company may at any time assign this Agreement to any other person or company authorised by the Company.

17. FORCE MAJEURE

a. Neither party shall be liable for any failure to perform its obligations hereunder if such failure arises from any act of God, war strike, lockout, or other labour dispute, riot, civil commotion, fire, lightning (or other electrical spike), flood, drought, epidemic or pandemic, failure of a utility service including a telecommunications network and the internet, legislation or other causes beyond the reasonable control of the party concerned.

18. GOVERNING LAW AND JURISDICTION

a. This Agreement 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) are governed by and construed in accordance with English law.

b. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter.

19. MODIFICATIONS OR VARIATIONS

a. This document contains the full terms of the Agreement between the parties. No modifications or variations of this Agreement shall be valid unless confirmed in writing by a director of the Company on its behalf and an authorised representative of the Customer save that the Company may from time to time make and shall notify the Customer accordingly of such modifications or variations to this Agreement as may be reasonably necessary to reflect any circumstances which are beyond the Company's reasonable control and which are continuing or (where terms relating to price and payment or the apportionment of liability between the parties are not being changed) as may be reasonably necessary to reflect any changes in the administration of the Company's business or its method or means of delivery of the Services provided that the Company shall give the Customer at least one month's prior notice of any modification or variation to be made which is likely to be of material detriment to the Customer and in that case the Customer shall have the option to withdraw from this Agreement without penalty at any time during such notice period by notifying the Company accordingly.

b. The Company may notify the Customer of any modification or variation to be made to this Agreement by posting such modification or variation on the Company's website.

20. MISCELLANEOUS

a. Representations

i. The Customer agrees that this Agreement is the complete and exclusive statement of the agreement between the parties which supersedes all understandings or prior agreements oral or written, and all representations or other communications between the parties relating to the subject matter of this Agreement.

- b. Severance
 - i. If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
 - ii. If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

- c. Statutes

In this Agreement:

- i. a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; and
 - ii. a reference to a statute or statutory provision shall include all subordinate legislation made from time to time under that statute or statutory provision.
- d. Quality of Service
 - i. The Company reserves the right to record telephone calls for quality of service purposes.
 - e. Notices
 - i. Any notice hereunder sent by the Company in the first class post shall be deemed received by the Customer forty eight (48) hours after the date of first class pre-paid postage posting to the Customer at the address given overleaf, or to such other subsequent address as may have been properly notified to the Company.
 - ii. The Customer shall send formal notice of either a Change of Billing Address or Termination by Recorded Delivery Post to the Company's registered office address.

- f. Company Employees and Contractors

- i. The Customer shall not, without the prior written consent of the Company, at any time during the term of this Agreement nor for a period of six (6) months following its expiry or termination for any reason, solicit or entice away from the Company or employ or engage any person who is, or has been, engaged as an employee or contractor of the Company at any time during the term of this Agreement and who has been involved in the provision of the Services to the Customer [in a technical capacity]. Any consent given by the Company shall be subject to the Customer paying the Company a sum representing liquidated damages equivalent to one hundred per cent (100%) of the then current annual remuneration of the Supplier's employee or the amount invoiced by its contractor during the 12 month period preceding the date of the contractor's last invoice to the Company.

21. AGREEMENT UNSIGNED

- a. Notwithstanding that the cover sheet of this Agreement may not have been signed by the Customer or the Company, a legally binding contract upon the terms of this Agreement shall be deemed to have come into effect between the parties upon the sooner of the Company commencing to supply the Services i.e. putting the Customer on cover pursuant to the Customer's purchase order or request and the Customer paying the Support Charge and any applicable VAT.

22. CUSTOMER TERMS

- a. For the avoidance of doubt the terms of this Agreement shall apply to every contract formed between the parties to the exclusion of any standard terms of purchase or similar which the Customer seeks to impose on or incorporate into such contracts at any time, whether such terms are supplied with the Customer's purchase orders or separately.

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Telephone 01254 272000. Web: www.abbeyict.com
Company Registration Number : 2412564
Directors: A.G.Wilson, A.D.Botham

YOUR AGREEMENT WITH US (this "AGREEMENT") IS MADE UP OF THE FOLLOWING DOCUMENTS:

- (i) THESE CUSTOMER TERMS AND CONDITIONS;
- (ii) THE SERVICE AGREEMENT;
- (iii) THE ORDER SCHEDULES;
- (iv) THE RELEVANT TARIFF(S) FOR THE SERVICES WE AGREE TO PROVIDE TO YOU; AND
- (v) SUPPLEMENTARY CONDITIONS RELATING TO SPECIFIC SERVICES, WHERE APPLICABLE.

THE SERVICES AND USE OF THE SERVICES

1. Provision of the Services

1.1 The Services we supply to you are those Services which (a) you have ordered by telephone and are set out in the Service Agreement and Order Schedules attached to these Conditions confirming your order, or (b) you have elected to receive as set out in the Service Agreement and Order Schedules, or (c) which you have subsequently ordered in writing, by fax, by email or by telephone, and in each case which we have agreed in writing or by email to supply to you. These may include (but are not limited to):

- The ability to make or receive a Call (telephone service);
- The provision of a Line or Lines for a rental charge (line rental service);
- The provision of Broadband internet access (Broadband service);
- The provision of Inbound telephony services (Inbound service);
- The provision of Mobile telephony services (Mobile service);
- The provision of IP telephony services (IPT service);
- The provision of Data services (Data service);
- Any other Services which we may offer for sale from time to time.

1.1.1 Your contract commencement date (the "Contract Commencement Date") will be based on one of the following:

For orders placed with a signed Service Agreement the Contract Commencement Date will be the date of the signed Service Agreement. Should you fail to confirm your order in writing the contract will commence from the date advised to you in our correspondence unless we have advised you that your order will be cancelled without your confirmation.

Where you are not currently in a contract we may notify you of a change to these Conditions, by giving you at least 14 days' notice in accordance with 19.2, then your new Contract Commencement Date will be the date the new Conditions came into effect.

Where there may be any conflict regarding your Contract Commencement Date, then you agree the actual Contract Commencement Date will be the date you first used the Service(s) or made a payment for the Service(s) whichever occurs first.

1.2 We will use reasonable endeavours to provide you with the Services by the date(s) we agree with you and to continue to provide the Services until this Agreement is terminated. However, we will not be liable for any loss or damages should the Services not commence or restart on the agreed date.

1.3 In providing the Services we shall use the reasonable skill and care that may be expected from a competent communications service provider.

1.4 Broadband service:

(a) If we consider that your bandwidth usage profile is abnormal or out of the ordinary (including without limitation extremely high levels of bandwidth use in a given period), we have the right to take such action as we deem appropriate which may include, without limitation, restricting or suspending your use of the broadband service, or increasing the charges you pay for the broadband service in accordance with paragraph 19.2.

(b) We will make reasonable endeavours to inform you in advance if we impose any restrictions on your use of the broadband service.

(c) Your use of the broadband service is entirely at your own risk. We will not be liable for any loss or damage arising from any virus, Trojan horse, spam or other malicious content that you may receive while using the broadband service notwithstanding that there may be a firewall contained in equipment supplied in connection with the broadband service.

1.5 Outbound service:

All calls are to be routed over our chosen network. Should any calls be routed over any other network with or without your knowledge, other than during a service failure or network outage that we have notified you of or for any other reason we may agree with you, then we reserve the right to bill you at our Leakage Tariff which at the time of application will mean the latest version available.

1.6 Inbound service:

(a) We reserve the right to apply a monthly charge for each inbound number which does not carry any traffic for any period of 3 consecutive months. Where this charge has been applied and a number subsequently carries traffic in any month then this charge will not apply to the months where there is traffic.

(b) We reserve the right to apply a nominal monthly charge for each inbound number where the only Service you take from us is the Inbound Service.

(c) Where you take a premium rate inbound Service you agree and acknowledge that use of this Service must comply with all relevant legislation, regulations, guidelines and codes of practice and that we will not be liable where use of this Service fails to comply.

(d) If an inbound number is withdrawn by Ofcom or PhonepayPlus or any of our suppliers for reasons beyond our control we reserve the right to recover the number(s) from you immediately. We will use our reasonable endeavours to supply you with another number which is acceptable to you.

1.7 IPT Service:

(a) If you have an IPT Service and move location, it is your responsibility to update your IPT address details by notifying us of any change in address where the relevant equipment will be housed so that the correct information can be supplied for Emergency Authority purposes. We are not liable for any consequences of your failure to do this.

(b) The IP address to be used with the IPT Service is not issued by us. Access to and use of this address is controlled by the internet authorities and its use is subject to any rules which they may prescribe. We reserve the right to withdraw and change this address if for any reason the address ceases to be available.

(c) Where the IPT Service supports 999/112 public emergency call services, connection to such services may not be possible in the event of a service outage caused by loss of End User connectivity to the internet for whatever reason. In that case, without prejudice to paragraph 11.9, the End User should use their PSTN line to make an emergency call. Also on occasion it may not be possible for the emergency services personnel to identify the End User's location and telephone number so this information should be stated promptly and clearly by the End User when making such a call.

(d) If you have ordered a Presentation CLI service, we may require each End User to sign a statement in a form reasonably prescribed by us to confirm they are duly authorised to use the presentation number requested and the restrictions on its use and to acknowledge our right to suspend or withdraw the use of the Presentation CLI Service in case of unauthorised use (further details are contained in the form of statement which is available from us on request)

1.8 All Services:

All Services are subject to Acceptable Use Policies which for these purposes will be the latest available version appearing on our website (www.abbeyict.com).

1.9 Services with Call Recording:

Where you take a service which includes call recording of inbound and/or outbound calls you confirm that you will comply with all legal requirements when using any call recording product and agree that we shall have no liability for any costs or claims which may be incurred as a result of any failure by you to comply with any legal requirements whether or not you were aware of the requirement.

2. Telephone numbers

2.1 You accept that you do not own the number(s) provided to you and that this agreement is personal to you. Therefore, you have no right to sell or to agree to transfer the number(s) provided to you for use with the Services and you must not do so or try to do so.

2.2 Our suppliers may reallocate numbers allocated to you if those numbers are not used for a period of 6 consecutive weeks. You also accept that we

have the right to reallocate to a third party any numbers that are provided to you for use with the Services but that you do not use for a period of six (6) months. However, if you continue to pay any recurring rental charges for those numbers, we shall not exercise this right.

3. Telephone books and directory enquiries

3.1 We will arrange to put your name, address and the telephone number(s) for the Services (subject to Paragraph 3.3.) in the telephone book published by BT for your area and make your phone number available to BT's directory enquiries database, as soon as we can. However, we will not do so if you ask us not to.

3.2 If you want a special entry in the telephone book you must let us know. Where we agree to a special entry you will be liable to pay an extra charge and sign a separate agreement for that special entry.

3.3 In relation to the IPT Service, arrangements in relation to inclusion in BT's telephone book and directory enquiries database are available on request from us.

3.4 It is your responsibility to verify that all directory entries are correct and remain correct. Other than where the error is as a result of our negligence, we accept no liability for any errors nor are we liable for any costs, financial losses or disputes that may arise from any omission or inaccuracy in the entry.

4. Changes and interruptions to the Services

4.1 We may have to do some things that could affect the Services. These things are listed in paragraph 4.2. If we have to interrupt the Services we will restore them as quickly as we reasonably can.

4.2 Occasionally we may have to:

- (a) change the code or phone number or the technical specification of the Services for operational reasons;
- (b) interrupt the Services for operational reasons or because of an emergency;
- (c) give you instructions that we believe are necessary for health or safety or to maintain the quality of the Services that we supply to you or to our other customers; or
- (d) suspend in whole or part the provision of the Services and the performance of our obligations under this Agreement with immediate effect if necessary in order to:
 - (i) comply with an order, instruction or request of government, an emergency services organisation, court of law, tribunal or other competent administrative or regulatory body including Ofcom; or
 - (ii) have work carried out relating to the upgrading or maintaining of the network (or any part of it) which underpins any Service.

4.3 Should the change we make have a material adverse effect on you or the Services we provide then you have the right to terminate the Agreement under the terms of paragraph 19.3.

4.4 We cannot guarantee and do not warrant that the Services will be free of interruptions or will be fault-free and we will not be liable for any loss or damages should the Services be interrupted from time to time. You accept that there may also be degradations of the quality of the Service from time to time due to matters beyond our reasonable control (see paragraph 14 below), and that we will not be liable for any loss or damages should the quality of the Service we provide be affected by such matters.

EQUIPMENT

5. Equipment

To the extent possible, we shall use reasonable endeavours to pass on to you the benefit of any manufacturers' warranties in relation to equipment supplied by us in connection with the Services.

6. Sale Equipment

6.1 The quantity, quality and description of and any specification for the Sale Equipment shall be those set out in the Service Agreement, Order Form or Product Schedules as may be amended from time to time.

6.2 We shall deliver the Sale Equipment to your address as specified in the Service Agreement and Order Schedules, and time shall not be of the essence for delivery.

6.3 Risk in the Sale Equipment will pass to you on delivery of the Sale Equipment. Therefore, it is your responsibility to look after the Sale Equipment and you will have to pay if you wish to replace or repair the Sale Equipment if it is lost, stolen or damaged.

6.4 You will not own the Sale Equipment until you have paid us in full for the Sale Equipment and we reserve the right to require you to return to us, or for us to collect (at your cost), the Sale Equipment if you do not pay us in full for the Sale Equipment by the due date for payment (in accordance with paragraph 10 below). Subject to the foregoing, you will be entitled to continue to use the Sale Equipment after expiry or termination of this Agreement.

6.5 You will be responsible for installing the Sale Equipment or such of your own equipment as you choose to employ (**Own Equipment**). We will not be liable for any loss, costs, damages or faults caused by, or repairs required as a result of, installation or misuse of, or damage to, any Sale Equipment or Own Equipment. You agree to indemnify us for all claims, losses, damages and expenses that are brought against us, incurred by us, or arising as a result of the same.

6.6 At our option we may choose to supply the Sale Equipment to you upon our standard customer terms and conditions of sale rather than upon the terms of this paragraph 6. In that case a copy of our standard customer terms and conditions of sale will be attached to the se Conditions for your acceptance when you confirm your order. In the event of any conflict between these Conditions including this paragraph 6 and our standard customer terms and conditions of sale so far as they apply to the supply of the Sale Equipment, our standard customer terms and conditions will prevail.

7. Apparatus and Own Equipment standards

7.1 You undertake that all apparatus which is attached (directly or indirectly) to a Service will conform to all applicable laws and to the relevant standard or approval for the time being designated under the Communications Act 2003 or the Radio Equipment and Telecommunications Terminal Equipment Regulations 2000 and any requirements or standards set out in any literature issued by us or our supplier in relation to the relevant Service.

7.2 If any Own Equipment being used for the Broadband service fails to comply at any time with the requirements, standards and approvals referred to in paragraph 7.1 above or is causing disruption to a Service or End Users, then the Broadband service may be disconnected by our supplier pending the disruption being resolved to the supplier's satisfaction.

YOUR INFORMATION

8. Call monitoring

We may occasionally monitor and record calls made to or by us relating to customer services and telemarketing calls made by us, for the purpose of training and improving customer care services, including complaint handling. We and/or our suppliers may also record 999 and 112 calls.

9. Data protection and use of your information

9.1 All information that we hold concerning you as an individual ("Personal Data") will be held and processed by us strictly in accordance with the provisions of the Data Protection Act 1998. Such data will be used by us to provide you with the Services, for related purposes and for the purposes set out in paragraph 9.2. We will not, without your consent, supply any Personal Data to any third party except where (1) such transfer is a necessary part of the Services that we undertake, or (2) we are required to do so by operation of law.

9.2 We would like to use the information we have about you and your use of the Services (this includes information about your bill size, the numbers

you call and the times you call) to inform you about the products, services, pricing packages and special offers which we provide and which we believe may be of particular interest to you. By accepting these Conditions you consent to us sending you such information. However, if you do not wish to receive that information, please advise us, by writing to us at Abbey ICT Ltd., Logic House, Ordnance St., Blackburn BB1 3AE or any other address/email address we may give you for this purpose from time to time.

9.3 You have the right under the Data Protection Act 1998 to obtain Personal Data, including a description of the data, that we hold on you. Should you have any queries concerning this right, please contact us at the address set out in paragraph 9.2.

9.4 You must inform us immediately if any of the information you have provided to us about you in connection with this Agreement changes.

YOUR OBLIGATIONS

10. Paying our charges for the Services

10.1 Charges

You must pay the charges for the Services according to the applicable Tariff(s). This applies whether you or someone else use the Services and whether the Services are used with your full knowledge and consent or otherwise. (This means by way of example but not by way of limitation that you are liable to pay for all calls made as a result of "rogue diallers", unbarred premium rate numbers and calls made by any third party gaining unauthorised access to your telephony systems). We may vary the charges set out in the Tariff as explained in paragraph 19.2.

10.2 Installation and Connection charges

The Service Agreement, Order Schedules and Tariff(s) set out whether installation costs are payable for the Services we have agreed to supply to you. However, we may be unable (due to third party constraints) to tell you when you place, or we confirm, your order for the Services how much these installation costs will be. If this is the case, we will give you an estimate of how much the installation costs will be prior to commencement of the installation work, but there may be supplementary excess construction charges. You agree to pay all installation costs actually incurred. In the event of an installation being cancelled before being completed you agree to pay all of the installation costs actually incurred to the point of cancellation which will be notified to you at the time.

10.3 Equipment

You must pay the charges for any Sale Equipment that we supply to you. We will invoice you for the Sale Equipment in the next invoice that we send to you (in accordance with paragraph 10.4) following the date on which we dispatch the Sale Equipment to you.

10.4 Invoices

We will send you your first invoice at the beginning of the month after the Services commence and thereafter on a monthly basis, but we shall be entitled to send you an invoice at a different time, which you shall pay in each case in accordance with paragraph 10.7. We will send all invoices and other correspondence to the address set out in the Service Agreement or otherwise the address you ask us to. We will show on the invoice which charges are payable in advance or in arrears, as referred to in paragraph 10.5. We will include all charges on the next invoice where possible, and in any event as soon as we can.

10.5 Rental and Call charges

You will incur charges from the time any part of a Service is used or received except in the case of Services subject to a periodic rental, in which case you will incur charges from the date the Service is made available for use. We will usually ask you to pay the rental in advance and your first invoice will include both one month's rental in advance and a charge for a part month's rental from the Contract Commencement Date up to the beginning of the first complete month, where appropriate, and then monthly in advance thereafter. Call and other charges will be invoiced in arrears. We will calculate the charges for Calls using the details recorded by our network.

10.6 Payments in advance and deposits

(a) We may ask you for a payment in advance before payment would normally be due, which you shall pay in accordance with paragraph 10.7. This advance payment will not be more than our best estimate of your following month's invoice. Should your advance payment exceed your actual invoice then any surplus will be credited to your account to be offset against subsequent invoices, should there be no further invoices and your account is not in debit then we will refund to you any surplus after deducting any cancellation or termination charges.

(b) We may ask for a deposit at any time, as security for payment of your invoices if it is reasonable for us to do so, which you shall pay in accordance with paragraph 10.7. Our procedures for deposits will be explained to you at the relevant time.

10.7 Terms of payment

Our standard credit terms are payment within fourteen (14) days of date of invoice by direct debit and these are the credit terms which will apply to this Agreement unless we have agreed otherwise in writing. You must pay all charges and rental within the credit terms which we have agreed and any advance payments and deposits when we ask for them. We reserve the right to apply a nominal monthly charge for non direct debit payment methods. Where payment is arranged through a finance provider payment shall be in accordance with the terms of the finance agreement. Unless otherwise stated all charges exclude VAT which is chargeable at the applicable rate.

10.8 Tariff

(a) You hereby acknowledge and agree that we have agreed to supply the Services to you at the agreed Tariff and charges on the basis that you have committed to the Minimum Spend and Minimum Term commitments.

(b) Our call rates for outbound calls to UK non geographic numbers are charged according to the banding used by BT. You hereby acknowledge and agree that there may be occasions where a call type moves from one band to another band or BT change their charging structure and subsequently the charges for some of these call types may change, we will apply this change from the 1st of the month following the change and you acknowledge that we may not always be able to give you notice of such changes.

(c) Where you take any bundled service you agree to pay for all chargeable items which are excluded from or exceed the allowance of the bundle.

10.9 Finance and Credit

You hereby consent to and shall procure that your owners, directors, officers and assigns, consent to us carrying out searches with credit reference agencies relating to the credit worthiness of your Company and/or your owners, directors, officers and assigns and you undertake to supply or procure the supply of all information requested for a credit search with a credit reference agency, who will add to your records and/or those records of your directors, officers and assigns details of the searches and these will be seen by other organisations that make searches.

10.10 Inbound Rebates

We reserve the right to offset any inbound rebates which may be due to you against any amounts you may owe to us. We reserve the right not to pay any inbound rebates until such rebates total a cumulative minimum of £5 in any month.

10.11 Offsetting

Where we owe you any monies, you agree that we may offset this against any monies you may owe us before we make any payment to you.

10.12 (Reserved for Future use)

10.13 Other Charges

We reserve the right to make a nominal monthly charge for paper itemised billing; our basic online billing is provided as standard to all customers free of charge. We also reserve the right to apply a £5 per month minimum charge if your monthly invoice would be less than £5.

YOUR OTHER RESPONSIBILITIES

11. Your Other Responsibilities

11.1 Our equipment and instructions

You agree to comply with our reasonable instructions relating to the Services and any equipment we supply to you in connection with the Services.

11.2 Entry to your premises

(a) If our engineers or sub-contractors have to enter your premises you agree to let them do so within normal working hours (Monday to Friday, 9am to 5pm) or otherwise if agreed with you in advance. We will meet your reasonable requirements regarding the safety of people on your premises and you must do the same for us.

(b) If we need someone else's permission to cross, or put our equipment in, or make an installation on their premises, you must get that permission for us and make any necessary arrangements. We will not be liable for any loss or damage where this permission is not obtained by you and you agree to pay any costs actually incurred.

(c) When our work is completed, you will be responsible for putting items back and for any necessary re-decorating.

11.3 Misuse of the Services

Nobody must use the Services:

(a) to make abusive, defamatory, obscene, offensive, indecent, menacing, disruptive, nuisance or hoax Calls, emails or other communications or Calls, emails or other communications in breach of privacy or any other rights;

(b) to send, knowingly receive, upload, display, download, use or re-use material which is abusive, defamatory, obscene, offensive, indecent or menacing or in breach of copyright, privacy or any other rights;

(c) to send and receive data in such a way or in such amount so as to adversely affect the network (or any part of it) which underpins any Service or to adversely affect our other customers or customers of our suppliers;

(d) for the carrying out of fraud, an unlawful activity or a criminal offence or in a way which does not comply with the terms of any legislation;

(e) in a way that does not comply with any instructions given by us to you under paragraph 11.1;

(f) to obtain access, through whatever means, to restricted areas of the underlying network; or

(g) in a way which (in our reasonable opinion) brings our name into disrepute, or which places us in breach of our legal or regulatory obligations, and you must make sure that this does not happen. The action we can take if this happens is explained in paragraph 15. If a claim is made against us because the Services are misused in these ways, you must indemnify us in respect of any sums we are obliged to pay and/or costs we incur.

11.4 Indemnity

(a) If you use the Services for business purposes, you must indemnify us against any claims that anyone (other than you) threatens or makes against us because the Services are faulty or cannot be used by them.

(b) Where you take any product or service via ourselves for which you are billed by us but where you are directly contracted to a third party for that product or service, including but not limited to maintenance and insurance, you agree to indemnify us from any direct or indirect claims in relation to this product or service. You also agree not to make any deduction from any monies owed to us as a result of any dispute you may have with any such third party.

11.5 Line rentals

When we provide your Line rentals, we will route your Calls through our network. No other service provider may route these Calls or attempt to, and if they do we reserve the right to bar these calls.

11.6 Call charges

We will bill you for all Calls that are routed over our chosen network provider. Any Calls that are routed by other means for any reason beyond our reasonable control and for which you are invoiced by another provider will remain your responsibility. It is your responsibility to advise us if you receive invoices from other providers for services you believe to be with us and you should advise us as soon as you receive these invoices. We shall not be liable for any loss or damages as a result of you being invoiced by other providers (including but not limited to any perceived loss of savings).

11.7 Existing Contractual Obligations

It is your responsibility to ensure that signing a contract with us does not breach any existing contractual obligations you may have with any other suppliers and you should give any other suppliers notice as may be required by them. We are not responsible or liable for any costs, financial losses or disputes that may arise from any such breach of contract or your failure to give the correct notice.

11.8 Resilience

It is your responsibility to ensure you have adequate resilience in place to protect against any loss of data, service or connectivity; this includes a separate power supply for IPT phones. In accordance with paragraph 13.2, we will not be liable for any loss or damage (financial or otherwise) where you fail to do so.

11.9 Emergency Calls

IP Phones need an additional power supply to operate. In the event of a power failure it is your responsibility to ensure you have the means to make emergency calls. In accordance with paragraph 13.2, we will not be liable for any loss or damage (financial or otherwise) where you fail to do so.

11.10 User Names, Passwords and Pin Codes

It is your responsibility to keep private any user names, passwords or pin codes that we may provide you with to use any of our Services. You are liable for all charges associated with the use of such user names, passwords and pin codes to access our Services unless you advise us that the security of any of the user names, passwords or pin codes may have been compromised and we confirm back to you that we have disabled the access. Should you fail to notify us of any such compromise in security then you will remain liable for all charges incurred in accessing the Services. Where we disable any access following a compromise in security, we shall provide you with new user names, passwords or pin codes as appropriate which are subject to the terms of this paragraph.

REPAIRING FAULTS

12. Repairing faults

12.1 We will investigate any fault that is reported to us according to our standard procedures for the Service in question (which are available on request). We will use reasonable endeavours to repair any fault that is reported to us and which is directly caused by us or our employees or agents according to our standard procedures for the Service in question.

12.2 When we agree to work on a fault outside the hours covered by our standard procedures, you will be liable to pay us an extra charge at the applicable rate set out in our tariffs in force at the time.

12.3 If you tell us there is a fault in a Service and we find either that there is not or that you, someone at your premises or a third party (including, without limitation, another network operator or communications supplier) has caused the fault or the interruption in service, we may charge you for any work we have done to try to find the fault or to repair it. We are not liable for any loss or damages arising from a fault or interruption in service caused by someone other than us, and we are not responsible for fixing any faults not caused by us.

12.4 During any fault investigations, we may require you to carry out tests and we will require you to feedback any results of these tests to allow us to follow our standard procedures and conclude our investigations.

12.5 Where Call routing utilises IP, you acknowledge that call quality and availability can be subject to factors outside of our control e.g. bandwidth contention or quality of service (QoS). We shall not be liable to you in respect to any quality or availability issues with such a Service.

LIMITATION OF LIABILITY

13. Liability

13.1 We accept liability for personal injury or death as a result of our negligence. We also accept liability for fraud or fraudulent misrepresentation. We do not limit that liability and paragraphs 13.2 and 13.3 do not apply to that liability.

13.2 We have no liability (howsoever caused including (without limitation) by negligence) for any loss of business, profits, revenue or savings you expected to make, wasted expense, financial loss, data being lost or damaged, lack of availability of IT and/or communications systems not provided by us, damage to reputation or for any liability for any loss that is not reasonably foreseeable or for any indirect or consequential loss.

13.3 Any liability we have of any sort (including any liability because of our negligence) is limited to £100,000 for any one event or any series of related events, and in any twenty four (24) month period to £500,000 in total.

13.4 Except as expressly set out in this Agreement, all conditions, warranties, terms, undertakings and obligations implied by statute, common law, custom, trade usage or otherwise are hereby excluded to the maximum extent permitted by law.

13.5 Each part of this Agreement that excludes or limits our liability operates separately. If any part is disallowed or is not effective, the other parts will continue to apply.

13.6 We are not responsible for any pricing, typographical, or other errors and reserve the right to reject any orders where such an error may have occurred.

13.7 The provisions of this paragraph 13 shall continue to apply notwithstanding termination of this Agreement.

14. Matters beyond our reasonable control

If we cannot fulfil, or are delayed in fulfilling, or are interrupted in continuing to fulfil, our obligations under this Agreement because of something beyond our reasonable control such as, without limitation, lightning, flood, or exceptionally severe weather, fire or explosion, civil disorder, war, or military operations, national or local emergency, anything done by government or other competent authority, acts or omissions of other communications suppliers or network operators, or industrial disputes of any kind, (including those involving our employees or suppliers), we will not be liable for this.

CHANGING AND TERMINATING THE AGREEMENT

15. Breach of the Agreement

15.1 We may suspend any or all of the Services or terminate the Agreement immediately at any time by notifying you in writing if:

(a) you commit a material breach of this Agreement or any other agreement you have with us and fail to remedy the breach within a reasonable time of being asked to do so;

(b) we believe that the Service(s) are being used in a way forbidden by paragraph 11.3 or in breach of an Acceptable Use Policy. This applies even if you do not know that the Service(s) are being used in such a way;

(c) bankruptcy or insolvency proceedings are brought against you, or if you do not make any payment under a judgment of a court on time, or (if you are a business) you make an arrangement with your creditors, or a receiver or administrator is appointed over any of your assets, or you go into liquidation;

(d) you or any End User appears on a Consumer Protection List and in that case we may also withdraw any telephone numbers allocated to you or such End User; or

(e) our supplier ceases to be authorised to supply a Service under the Communications Act 2003 or has to terminate its supply in order to comply with an order, instruction or request of government, an emergency services organisation, court of law, tribunal or other competent administrative or regulatory body including Ofcom.

15.2 If you fail to pay any charges due to us by the due date we may (without losing or reducing any other right or remedy) suspend any Service (in whole or in part) without notice or terminate the Agreement immediately at any time by notifying you if:

(a) you fail to make any payment requested within seven (7) days of the date of a letter, e-mail or other appropriate correspondence requesting such payment;

(b) Two (2) consecutive direct debit requests are rejected; and/or

(c) You fail to pay any payment on the due date where there have been two (2) preceding failures which were remedied within the seven (7) day period.

15.3 Interest shall be due and payable on all overdue amounts at the rate specified in the Late Payment of Commercial Debts (Interest) Act 1998.

15.4 If we suspend any Services, we will not provide them again until you rectify the situation that caused us to suspend the Services or you have satisfied us that you will do so or that the Services will not be used in a way that is forbidden by paragraph 11.3.

15.5 If we suspend any Services because you breach this Agreement, the Agreement will still continue and you must still pay us any rental charges as and when they arise unless and until the Agreement is terminated.

15.6 If this Agreement or any of the Services are terminated in accordance with this paragraph 15 during the Minimum Term or any agreed term applicable to each of the Services, we will levy a cancellation charge in relation to each relevant Service, which will be immediately due and payable, calculated in accordance with the following:

(a) Each Service for which a monthly rental charge is payable - number of months remaining of Minimum Term for that Service multiplied by the monthly rental (and a pro rata charge for any part month remaining); and

(b) Call Spend – number of months remaining on Minimum Term multiplied by the monthly Minimum Spend (or the average of your last three months' call spend where there is no Minimum Spend) (and a pro rata charge for any part month remaining); and

(c) Repayment of any subsidised charges or any other contribution we made towards any other costs, as described in paragraph 18.3; and

(d) Repayment of any discount or other benefit you may have received which was based on a minimum contract term commitment, and/or

(e) Any applicable cease charges as may be detailed in the tariff.

15.7 Following a suspension of services, we will only re-activate your services after you have paid the re-activation charges as may be advised at the time.

16. Cancelling the Services before they are provided

16.1 You may cancel the Services or an individual Service at any time up to seven (7) working days either after you receive or (if earlier) you are deemed to receive these Conditions (and the Service Agreement and other documents comprising this Agreement) or, if sooner, up to but not including the date on which we commence our supply of the Services to you, provided that you notify us in writing of such cancellation within such period and return any equipment that we may have sent to you, undamaged and in its original packaging by sending it special delivery to us at Abbey ICT Ltd., Logic House, Ordnance St., Blackburn BB1 3AE. You will be deemed to have received these Conditions at the time you sign the Service Agreement and Order Schedule. These conditions are available for download from our website. Please note that if you have commenced using any Service or equipment after receiving these Conditions, you will be deemed to have accepted these Conditions and agree that you will also lose your right of cancellation as set out in this paragraph 16.1.

16.2 Where the Services or an individual Service are validly cancelled as described in paragraph 16.1:

(a) we shall be entitled to charge you for the costs we incur in collecting from you any equipment that we may have sent you but which you fail to return to us; and

(b) you must pay us for any work we have done or costs we have incurred up to the date of cancellation.

17. Terminating the Agreement after the Services are provided

17.1 Termination at end of Minimum Term

(a) Either party may terminate this Agreement in respect of a Service by giving the other party not less than ninety (90) days' notice in writing to take effect on or at any time after the end of the Minimum Term for the relevant Service except where the contract has been automatically renewed pursuant to paragraph 18.4. Where a Service has a notice period of greater than ninety (90) days then this period of notice must be provided on that Service.

(b) If we give you notice to terminate under paragraph 17.1(a), you must pay rental up to the end of the notice period in addition to any charges for Calls made during the notice period. If you give us notice to terminate under paragraph 17.1(a), you must pay rental until ninety (90) days from the date we receive your notice, or until the end of the notice if that is later, in addition to any charges for Calls made during the notice period

(c) If you fail to give us notice you must pay rental until ninety (90) days, or longer where a service has a greater notice period, after you have ceased to use our Service.

(d) Some Services may incur cease charges, and these will be chargeable on termination unless otherwise agreed in writing. This includes porting fees at the rate of £12.50 + VAT per number.

17.2 Termination before end of Minimum Term

If you want to terminate this Agreement in respect of a Service prior to the end of the Minimum Term for the relevant Service (other than because we have materially altered the conditions of this Agreement under paragraph 19.3) you must give us at least ninety (90) days' notice in writing and we will levy a cancellation charge calculated in accordance with the following:

(a) Each Service for which a monthly rental charge is payable - number of months remaining of Minimum Term for that Service multiplied by the monthly

rental; and/or

- (b) Call Spend – number of months remaining on Minimum Term multiplied by the monthly Minimum Spend (or the average of your last three months' call spend where there is no Minimum Spend); and/or
- (c) Pro-rata or full repayment of any subsidised installation or any other contribution to upfront or on-going costs paid by us as described in paragraph 18.3 and in accordance with the terms of the subsidised installation, and/or
- (d) The appropriate notice period charge for each Service, including porting fees at the rate of £12.50 + VAT per number and/or
- (e) Repayment of any discount or other benefit you may have received which was based on a minimum contract term commitment, and/or
- (f) Any applicable cease charges as may be detailed in the tariff.

17.2.1 Should you fail to pay the early termination cancellation charges within 10 days of the date of invoice we reserve the right to suspend your Services.

17.3 If you have paid any rental in respect of a Service for a period after this Agreement has ended in respect of that Service, we will either repay it or off set towards any money you owe us.

17.4 You must pay all charges for the Services until the date on which we stop providing the Services to you and any applicable notice period.

17.5 We also have the right to terminate this Agreement or any of the Services immediately on notice to you in accordance with paragraph 15 and in these circumstances the ninety (90) day notice period will not apply.

17.6 Additional Termination Provisions

- (a) The provisions of this paragraph 17.6 shall be without prejudice to the other provisions of this Agreement.
- (b) At the end of this Agreement, you shall be responsible for arranging for the Services to be provided by another supplier ("the New Supplier").
- (c) In the event that we terminate this Agreement pursuant to the provisions of paragraphs 15.1, the provision of Services shall end with immediate effect upon the service of notice to you, in accordance with the provisions of those paragraphs.
- (d) On receipt of your notice of termination we will apply Standard rates, applicable at the time, to all Services on your account.
- (e) Once you have served your minimum notice requirement we may serve you a minimum of 48 hours' notice to suspend your Services. Following suspension of your Services under this clause you may request that Services are reconnected and agree these will be subject to a reconnection charge and a new minimum contract period. We will notify you of this charge and contract period at the time.
- (f) Should you serve your required notice and fail to move your Services to a new provider then you accept and agree that you will remain liable for all charges at our Standard rates until such time that the Services are transferred to a new provider.
- (g) If pursuant to paragraph 19.2 we make a change to the terms and conditions of the Agreement which has a material adverse effect on you or the Services we provide, as described in paragraph 19.3, you have the right to terminate immediately the Agreement or any of the Services before the end of the Minimum Term applicable to each of the Services by giving us notice in writing to that effect.

18. Minimum Term, Minimum Spend and Contract Renewal

18.1 The Minimum Term and Minimum Spend will be as specified on the Service Agreement, Order Schedules or Tariff(s) for each Service, or as otherwise agreed with you in writing. In the event that the Minimum Term is not on the Service Agreement or Order Schedules then the Minimum Term will be 24 months from your Contract Commencement Date. In the event that the Minimum Spend is not on the Service Agreement or Order Schedules then the Minimum Spend applicable to the calls tariff shall be £60.00 +VAT per month. The Minimum Term for any new installation will be at least twenty four (24) months or greater as may be specified in the Service Agreement or Order Form.

18.2 If you fail to reach the annualised Minimum Spend commitment in respect of a Service over the initial Minimum Term and any renewed Minimum Term for such Service then we reserve the right to bill you in the month following expiry of the Minimum Term (or immediately on early termination) the difference between the actual amount you spent and the amount you committed to spend pursuant to the Minimum Spend over the Minimum Term

18.3 If this Agreement or any individual Services are terminated during the Minimum Term or any agreed term for the relevant Service(s) and you received free or subsidised installation or activation or any other contribution towards costs of any Services, products, Equipment, Lines or third party termination charges as part of the Tariff or otherwise, then we reserve the right to impose a termination charge equal to the original cost divided by the number of months in the relevant term, multiplied by the number of months remaining in the relevant term.

18.4 Subject to paragraph 18.5, after the expiry of the Minimum Term, unless either party serves a valid notice of cancellation on the other party pursuant to this paragraph 18.4 or as otherwise agreed with you in writing, your contract will automatically renew for a period of 24 months. This automatic renewal occurs on the date of expiry of the Minimum Term unless either party has given the other at least 90 days prior notice of cancellation and on each 24 month anniversary thereafter until this Agreement is cancelled by either party giving the other at least 90 days written notice to expire no earlier than the end of the then current term, subject in each case to paragraph 15, provided that we shall be entitled to terminate a Service on notice either during the Minimum Term or during any automatic renewal term, such notice of termination to expire at the same time as any notice of termination served on us by a third party which supplies the Service on our behalf (being a notice of termination not arising due to default on our part) is due to expire. Automatic contract renewal will be on the same terms as the original contract and unless otherwise agreed in writing, the same Minimum Spend will apply.

18.5 If you are a Small Business Customer, your contract will not automatically renew under paragraph 18.4 and the contract shall be terminable by either party under paragraph 17.1 (a) on or at any time after the end of the Minimum Term unless you have given your express consent in writing to the contract being automatically renewed under paragraph 18.4.

19. Changing the Agreement

19.1 In general

If you ask us to make any change to the Services or Rental Equipment we will ask you to confirm your request in writing. No action will be taken by us to carry out the change until we have received your written confirmation. If we agree to a change, this Agreement will be changed when we confirm the change to you in writing.

19.2 Conditions

We may change the terms and conditions of the Agreement (or any document comprising part of the Agreement, including the Tariff for any Service) at any time on giving you fourteen (14) days' notice. We will notify you of any changes on your monthly invoice and will post any changes or new terms and conditions on our website. You agree that if you continue to use the Services following receipt of such notice you will be bound by the new/revised Conditions. We reserve the right to pass on any increase in our cost for the Services we provide to you at any time by giving fourteen (14) days' notice or such lesser period of notice as we may receive from our supplier, the only exception being that detailed in paragraph 10.8(b).

19.3 Material Adverse Effect

Other than in the case of passing on cost increases, if a change has a material adverse effect on you or the Services we provide then the termination charges detailed in paragraph 17.2 will not be payable by you if you wish to terminate the Agreement or any of the Services before the end of the Minimum Term applicable to each of the Services. Termination charges for any subsidised installation as described in paragraph 18.3 will remain in effect and will be payable by you.

20. Transferring the Agreement

You cannot, and cannot try to, assign or transfer (in whole or in part) this Agreement or the benefit of or the rights under this Agreement to anyone else. Provided that we give you prior notice, we may assign, transfer or sub-contract (in whole or in part) any or all of our rights and obligations under this Agreement to any Associated Company or a third party which acquires the whole or substantially the whole of the business, undertaking and assets of Abbey ICT Ltd.

GENERAL CONDITIONS

21. Giving notice

Any notice given under this Agreement must be delivered by hand or sent by email or prepaid post as follows:

- (a) to us at the address or email address shown on the Service Agreement or on your last invoice, or at any other address or email address we give you;

(b) to you at the address you have asked us to send invoices to or to the email address you have given us.

22. Entire Agreement

The Agreement (including these Conditions, the documents referred to in them, the Service Agreement, the Order Schedules and any conditions relating to specific Services) constitutes the entire agreement between you and us for the Services and supersedes any and all other written, recorded and oral communications between you and us in connection with the Services.

23. Severance

If any of these Conditions or any term or condition of this Agreement is deemed invalid, void, or for any reason unenforceable, that term or condition will be deemed severable and will not affect the validity and enforceability of any remaining term or condition.

24. Reliance

You acknowledge that you have not been induced to enter into this Agreement by, nor have you relied upon, any representation, promise, assurance, warranty or undertaking (whether written or oral) by or on behalf of us or any other person save for those set out in this Agreement, except in the case of fraud.

25. No waiver

If you breach these Conditions and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach these Conditions.

26. Survival

Any Conditions which are expressed to survive expiry or termination shall survive expiry or termination of the Agreement however caused.

27. Third Party Rights

A person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

28. Governing Law and Jurisdiction

28.1 Subject to paragraph 28.2, this Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

28.2 We are a member of Ombudsman Services who offer an independent dispute resolution service. You are entitled to refer any complaint to Ombudsman Services should you deem that we have failed to address a complaint to your satisfaction.

29. Applicable Conditions

29.1 This Agreement will continue in respect of each Service for the Minimum Term applicable to each Service and thereafter unless and until terminated in accordance with this Agreement.

29.2 These Conditions apply to the provision of all Services.

29.3 Where we publish separate conditions for specific Services, both conditions will apply but those conditions will take precedence over these Conditions in the event of inconsistencies between them.

30. Recording Calls

30.1 We reserve the right to record calls for quality of service purposes.

These are the terms & conditions in force at the outset of your agreement. When these terms & conditions are updated we will inform you by email. These terms & conditions can be viewed on our website:

www.abbeyict.com

Abbey ICT Ltd.

Logic House.

Ordnance St.

Blackburn.

Lancashire. BB1 3AE

Telephone 01254 272000

Fax 01254 272001

sales@abbeyict.com

www.abbeyict.com

Company Registration Number - 2412564

Directors: A. G. Wilson, A. D. Botham

DEFINITIONS

31. Definitions

"Acceptable Use Policies" means such policies, as we may issue from time to time, of what we regard as acceptable use of our Services.

"Associated Company" means any subsidiary or parent company of Abbey ICT Ltd or any subsidiary of Abbey ICT Ltd's parent company (apart from Abbey ICT Ltd itself).

"Call" means a signal, message or communication which is silent, spoken or visual on each Line that we agree to provide to you under this Agreement.

"Conditions" means these Terms and Conditions and any other Conditions specific to other Services.

"Consumer Protection List" means a list published by Ofcom of companies and individuals that have caused serious or repeated harm to consumers or that are under assessment by Ofcom.

"Contract Renewal" means an automatic renewal of your contract for a further 24 months after the initial Minimum Term and each subsequent 24 month's renewal thereafter.

"End User" means a person who is the ultimate user of Services which depend upon the provision of Services to you.

"Equipment" means Rental Equipment and/or Sale Equipment.

"Line" means a connection to our network or that of our suppliers, whether direct or indirect.

"Leakage Tariff" means that where Carrier Pre-Selection (CPS) has been circumvented and calls are carried by BT, then we will recover those costs plus 15%.

"Minimum Spend" means in relation to each Service the monthly minimum spend commitment as outlined in the Service Agreement, or the Order Schedule, or the Tariff or otherwise in any agreed tariff plan referred to in the Service Agreement or Order Schedule constituting the minimum amount you agree to pay to us each month for that Service regardless of your actual use of the Service.

"Minimum Term" means the minimum initial period of service for each Service as shown on the Service Agreement and Order Schedule, such period to start on the date on which the relevant Service is first made available to you for use. For the avoidance of doubt, unless otherwise agreed the minimum term will be 24 months from your contract commencement date or other such date as may be notified to you in accordance with paragraph 19.2.

"Rental Equipment" means the equipment identified on the Service Agreement and Order Schedule or otherwise notified to you in writing that we will rent to you as part of our provision of the Services and which you will return to us after expiry or termination of the Agreement, subject to the provisions of this Agreement.

"Sale Equipment" means the equipment identified on the Service Agreement, Order Schedule or otherwise notified to you in writing that we will sell to you, subject to the provisions of this Agreement.

"Service" or **"Services"** means all or part of the Services explained in paragraph 1 or identified in the Service Agreement and Order Schedule and any related services that we agree to provide to you under this Agreement.

"Service Agreement" means (i) where you place an order with us by telephone, the confirmation of order accompanying these Conditions for Communications, or (ii) where you place a written order, the document you sign when you become our customer, in each case detailing, amongst other things, the Services you wish to receive, the minimum period you wish to receive the Services for and the Tariff at which you will be charged and which forms part of this Agreement.

"Small Business Customer" means a business customer for whom from time to time 10 or less individuals work whether as employees or volunteers or otherwise.

"Tariff" means the tariff referred to in the Service Agreement and Order Schedules and as amended from time to time under paragraph 19.2 above.

"we" and **"us"** and **"COMPANY NAME"** and **"our"** means ABBEY ICT Ltd.

"you" and **"your"** means the customer we make this Agreement with. It includes a person who we reasonably believe is acting with the customer's authority or knowledge.