



Terms of Business

INTRODUCTION

These are the standard **Terms of Business** on which **We** will provide products and/or **Service** to **You**. They are made up of 2 main sections shown below and together with the **Order Form** (where presented) will form a legally binding **Contract** between **You** and **Us**. These **Terms of Business** shall apply to **ALL** products and / or **Service** provided by **Us**, whether ordered pursuant to an **Order Form** or not.

We provide a range of products and **Services** and therefore this document is split into 2 sections:

1. **General Terms and Conditions**

These set out the general terms and conditions that apply across all products & services provided by **Us**, therefore all customers should read this section.

2. **Service specific sections**

There are 5 products & services sections as summarised A-E in the table below. For each product and/or **Service You** are ordering from **Us**, **You** should read the appropriate **Services Specific Terms** (additional specific terms).

Summary of Products and Services

Section	Service	Brief description
A	IT Managed Services	Provision of Service Desk Support Services for computer networks, including infrastructure, servers and PC support, maintenance and monitoring.
B	IT Professional Services	Provision of IT professional services (e.g. field engineering, project management, project implementation and consultancy).
C	Cloud and Data Services	Provision of domain, web and server hosting, cloud-based IT services and broadband.
D	IT Hardware and Software Supply	Provision of third-party IT Hardware and / or software and mobile services.
E	Calls and Line Services	Provision of calls and line services (e.g. ISDN and voice safe)

3. **Order Form**

This sets out exactly what products and Services we are supplying along with any special or bespoke terms that will apply.

Exclusion of Consumer Status

Our Services are supplied exclusively on a business-to-business basis. **Our Services** are not intended for, offered to, and must not be used by, consumers for personal, domestic or household purposes (including personal use of devices, systems or networks). Accordingly, consumer protection legislation (including the Consumer Rights Act 2015) does not apply to **Our Services** or to these **Terms of Business**.

By accepting these **Terms of Business** and entering into the **Contract**, **You** confirm that **You** are acting wholly for the purposes of **Your** trade, business or profession and not as a consumer.

Customer Classification

To the extent that any of the **Services** constitute electronic communications networks or electronic communications services within the meaning of the Communications Act 2003, they are provided in accordance with Ofcom's General Conditions of Entitlement ("**General Conditions**"), as amended from time to time.

For the purposes of the General Conditions, **Our** customers are classified as business customers and not as a consumer. Where applicable under the General Conditions, **Our** customers may additionally fall within a sub-category of business customers (including small or medium enterprises or micro-enterprises, as defined by Ofcom) depending on the size and circumstances of the business.

Any rights or protections which apply solely by reference to such classification shall apply only to the extent required by the General Conditions.

You are responsible for notifying us promptly and in writing if **Your** business size or circumstances change in a manner which may affect the application of the General Conditions. **We** may reasonably rely on **Your** classification unless and until notified otherwise.

General Terms & Conditions

1 DEFINITIONS

In the Contract, the terms in bold have the following meanings:

- 1.1 “**Additional Charges**” the **Additional Charges** payable by **You** for the supply of the **Service**, as specified in Schedule 1.
- 1.2 “**Charges**” – the **Charges** payable by **You** for the supply of the **Service** as specified on the **Order Form** (excluding any installation **Charges**) and payable in accordance with clause 7;
- 1.3 “**Contract**” – a completed **Order Form** which when signed by **You** forms a legally binding **Contract** incorporating these **Terms of Business**;
- 1.4 “**Control**” - the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the general management of the company, and controls, controlled and the expression ‘change of control’ will be interpreted accordingly
- 1.5 “**Customer Default**” – where the performance of any of **Our** obligations under the **Contract** is prevented or delayed by any act or omission by **You** or **Your** failure to perform any relevant obligation.
- 1.6 “**Early Termination Fee**” – the **Charges** that are accrued up to and including the date of termination, plus the total amounts of all **Charges** remaining on the **Initial Contract Term** or any successive terms.
- 1.7 “**Equipment**” – the **Equipment** (if any) specified on the **Order Form** and / or in the **Service Description**, that relates to the **Service**;
- 1.8 “**Force Majeure Event**” – any event or circumstance which is not within a party’s reasonable control, including (without limitation) acts of God or other natural disaster, failure of utilities, networks or data centre infrastructure, cyber attacks or failures of third-party systems, epidemics or pandemics or non-performance of suppliers and subcontractors caused by such events.
- 1.9 “**Hardware**” – the computer or telephone **Hardware** (if any) specified on the **Order Form**;
- 1.10 “**IT Managed Services**” – Network, infrastructure and Service Desk Support (if any), as further detailed in the **Service Description**;
- 1.11 “**Initial Contract Term**” – the initial Contract term specified in the **Order Form**;
- 1.12 “**Installation Service**” – any preparatory work carried out by **Us** to enable **You** to receive **Services**, including, for example, installation of any **Equipment**, migration work, configuration, any third-party work;
- 1.13 “**Order Form**” – **Our Order Form** for products and / or **Services** incorporating the **Charges** and a description of the products and/or **Service** to be provided.
- 1.14 “**Service**” – the **Service or Services**, as specified on the **Order Form**, and further detailed in the **Service Description**;
- 1.15 “**Service Description**” – the description of the relevant Section of these **Terms of Business**.

- 1.16 **“Service Desk Support Services”** – the hosted email, hosted telephony and/or hosted desktop, telephone system maintenance and support services and any other managed IT services as set out in the **Order Form**.
- 1.17 **“Supported Software”** any software, including any Third Party Software, to be included within the **Services** as specified on the **Order Form**.
- 1.18 **“Third Party Software”** – the **Third Party Software** (if any) specified on the Order Form;
- 1.19 **“Terms of Business”** – these **Terms of Business** including all Sections, as amended by **Us** from time to time;
- 1.20 **“We”, “Our”, or “Us”** – Delta 365 Limited (company reg. no. 09325250), incorporated in England with registered offices at 2-4 Packhorse Road, Gerrards Cross, Buckinghamshire, SL9 7QE and Delta 365 Solutions Limited (company reg. no. 12213551), incorporated in England with registered offices at 2-4 Packhorse Road, Gerrards Cross, Buckinghamshire, SL9 7QE;
- 1.21 **“Working Day”** – any day falling on or between Monday to Friday, but excluding all English public and bank holidays and excluding noon onwards on Christmas Eve;
- 1.22 **“You” or “Your”** – the customer purchasing our products and / or **Services**, whose details are specified on the **Order Form**;
- 1.23 **“Your Network”** – all the PCs and servers specified on the **Order Form** that together form your corporate domain, including any personal computers and printers locally;

2 **GENERAL**

- 2.1 **We** reserve the right to amend these **Terms of Business** at any time. Such revised **Terms of Business** shall be binding on **You** in relation to all existing and future products and / or **Services** and shall come into effect when **You** agree a subsequent order with **Us**. Such revised **Terms of Business** shall be deemed to constitute a part of the **Contract** between **You** and **Us** in place of the previous **Terms of Business**. Should these **Terms of Business** be amended we will provide a minimum of 30 (thirty) days written notice.
- 2.2 Any samples, drawings, descriptive matter or advertising issued by **Us**, and any descriptions or illustrations contained in catalogues, brochures or other materials produced by **Us**, are issued or published for the sole purpose of giving an approximate idea of the Services described in them. They shall not form part of the Contract or have any contractual force.
- 2.3 Any quotation given by **Us** shall not constitute an offer and is only valid for a period of 10 Working Days from its date of issue.

3 **INTERPRETATION**

- 3.1 In the event of any conflict between the **Order Form** and these **Terms of Business**, the **Order Form** shall prevail.
- 3.2 All references in a Section of these **Terms of Business** are to terms in that Section unless otherwise stated.

4 OUR OBLIGATIONS

- 4.1 **We** warrant that **We** will provide the **Service** to **You** by exercising reasonable skill and care and in accordance with the terms of the **Order Form** in all material respects.
- 4.2 **We** shall use our reasonable endeavours to meet any performance dates specified in the **Order Form**, but any such dates shall be estimates only and time shall not be of the essence for performance of the **Service**.
- 4.3 **We** do not warrant that the **Service** will be without interruption or error-free. **We** are not responsible for any delays or technical or geographical limitations over communications networks and facilities. Where technical limitations mean that the **Service** cannot be performed, we reserve the right to withdraw the **Service**.
- 4.4 Scheduled downtime or outages will occur from time to time. Where downtime or outages are scheduled, **We** will provide **You** with reasonable notice.
- 4.5 **We** reserve the right to amend the **Order Form** if necessary to comply with any applicable law or regulatory requirement, or if the amendment will not materially affect the nature or quality of the **Service** and shall notify **You** in any such event.
- 4.6 We reserve the right to reject the **Order Form** if **Your Network** and/or software or IT infrastructure does not pass a feasibility check carried out by **Us** to enable **Us** to provide the **Service**.
- 4.7 Where the **Service** is not being charged on a fixed price basis, any estimate or indication by **Us** of the number of man days or hours required to complete a specific task shall be deemed to be an estimate only with approximate **Charges** set out in the **Order Form**.

5 YOUR OBLIGATIONS

- 5.1 **You** shall:
 - 5.1.1 perform all **Your** obligations under the **Contract**;
 - 5.1.2 use all reasonable endeavours to carry out **Our** reasonable instructions;
 - 5.1.3 provide **Us** with, on an ongoing basis, all up-to-date information, co-operation, support, and access to enable **Us** to perform **Our** obligations under the **Contract**;
 - 5.1.4 provide **Us** with all office, information technology, and telecommunications facilities (including full remote access), at **Your** cost, that **We** may require to enable **Us**, our employees, agents, consultants and/or subcontractors to perform **Our** obligations under the **Contract**;
 - 5.1.5 ensure that the users of the **Hardware, Equipment** and / or the **Service** are suitably trained to do so;
 - 5.1.6 provide a suitable operating environment for the **Hardware** and **Equipment**, and only operate the **Hardware** and **Equipment** and any other products that are used in conjunction with the **Service** in accordance with our instructions, the manufacturer's operating instructions or good trade practice;
 - 5.1.7 ensure that **Your** connectivity, equipment, security protocols, IT infrastructure and contracts are adequate to enable us to provide the **Hardware, Equipment** and/or **Service** specified on the **Order Form**;
 - 5.1.8 comply with all regulatory and legal requirements of competent regulatory bodies within the European Union with respect to **Use** of the **Service**;

- 5.1.9 secure all necessary licences, permissions and consents as required and provide electrical and connection points to enable **Us** to perform all **Services** under the **Contract**;
- 5.1.10 provide **Us** and our providers with a suitable safe working environment; and
- 5.1.11 ensure **You** have cancelled any previous **Services** that **We** are replacing and dealt with any early termination charges that may become due to any previous service provider(s).
- 5.2 **You** shall not:
 - 5.2.1 except for the purposes of routine maintenance, add to, modify, or interfere with in any way, the **Equipment** and / or the **Service** (or permit any third party to do the same);
 - 5.2.2 unless otherwise agreed in writing, keep any **Equipment** or other property of **Ours** anywhere other than **Your** own premises in safe custody and at **Your** own risk and shall not dispose of or use our Equipment other than in accordance with **Our** express instructions or authorisation;
 - 5.2.3 allow unauthorised users to use the **Service**, and shall take all reasonable security precautions to avoid such unauthorised access;
 - 5.2.4 sell, mortgage, charge, dispose of, exploit or do anything that would prejudice the **Hardware**, software, **Equipment** or any other products supplied by **Us** in the provision of the **Service** in any way;
 - 5.2.5 use the **Service** in any way that would constitute or contribute to the commission of a crime, tort, fraud, or other unlawful activity (including activities deemed unlawful under a complainant's legal jurisdiction).
- 5.3 **You** agree to the Internet Acceptable Use Policy which we shall make available to you on request and warrant that any material and / or communication received, transmitted, hosted, or otherwise processed using the **Service** is not (and will not be) menacing, of a junk mail or spam like nature, illegal, obscene, threatening, defamatory, discriminatory, promote illegal or unlawful activity, or be otherwise actionable or in violation of any rules, regulations or laws to which the **Service** is subject, and does not (and will not) infringe the intellectual property rights of **Us** or any third party.
- 5.4 **You** shall indemnify and keep **Us** fully indemnified against all costs, claims, demands, expenses and liabilities arising out of or in connection with any breach or reasonably suspected breach of this Clause 5.
- 5.5 If performance of any of **Our** obligations under the **Contract** is prevented or delayed by any act or omission by **You** or any failure by **You** to perform any relevant obligation (**Customer Default**):
 - 5.5.1 without limiting or affecting any other right or remedy available to it, **We** shall have the right to suspend performance of the **Services** until **You** have remedied the **Customer Default**, and to rely on the **Customer Default** to relieve **Us** from the performance of any of **Our** obligations in each case to the extent the **Customer Default** prevents or delays **Us** in performance of any of **Our** obligations;
 - 5.5.2 **We** shall not be liable for any costs or losses sustained or incurred by **You** arising directly or indirectly from **Our** failure or delay to perform any of **Our** obligations as set out in this clause 5; and
 - 5.5.3 **You** shall reimburse **Us** on written demand for any costs or losses sustained or incurred by **Us** arising directly or indirectly from the **Customer Default**.

6 **CHANGES**

- 6.1 **You** shall not be permitted to make a change to this **Contract** unless such change has been agreed by **Us** and confirmed in writing.
- 6.2 Limited changes to the scope of the **Service** (including changes to Your sites and site locations where the **Service** is **Used**) may be agreed by **You** and **Us** from time to time and **You** accept that any such changes may result in incurring **Additional Charges**.

7 **CHARGES, INTEREST, AND DISCOUNTS**

- 7.1 All **Charges** are payable in sterling and are exclusive of Value Added Tax (VAT). Where any taxable supply for VAT purposes is made under the **Contract** by **Us** to **You**, **You** shall, on receipt of a valid VAT invoice from **Us**, pay **Us** such additional amounts in respect of VAT as are chargeable on the supply of the **Services** at the same time as payment is due for the supply of the **Services**.
- 7.2 **We** shall be entitled to raise an invoice for the **Charges** as and when they become payable.
- 7.3 Full payment (in full and cleared funds to the bank account nominated by **Us**) of a raised invoice shall fall due 14 (fourteen) days after the date of that invoice, unless otherwise specified in the **Order Form** in which case full payment shall fall due on that date. Time for payment shall be of the essence of the Contract. **You** must check the invoice carefully on receipt. If **You** wish to raise any queries regarding the invoice, **You** must do so as soon as possible, and not later than 7 (seven) days after the date of receipt (after which **You** are deemed to have accepted the invoice)
- 7.4 **You** shall pay all **Charges** without any deductions, withholdings, counterclaims, and set-offs (other than any deduction or withholding of tax as required by law).
- 7.5 Any payments which are not paid by Direct Debit may be subject to **Additional Charges** per invoice.
- 7.6 Following the **Initial Contract Term**, **We** shall be entitled to revise any ongoing **Charges** with effect from the first day of a calendar month by giving **You** not less than 30 (thirty) days' written notice.
- 7.7 If any **Charges** are not paid in full by the due date then without prejudice to **Our** other rights and remedies **We** reserve the right to charge interest on the outstanding sum on a daily basis (before as well as after any judgment) until the date of payment at the rate prescribed from time to time under the Late Payment of Commercial Debts (Interest) Act 1998.
- 7.8 Where the **Charges** have been discounted (such discount being specified on **the Order Form**) based on any assumptions (e.g. **You** taking a 'bundle' of services and / or products from **Us** for a period of time), such discount only remains valid for as long as those assumptions remain true and applicable. When any of those assumptions no longer remain true or are no longer applicable, **You** shall from then on pay the full **Charges** without the application of any discount.
- 7.9 **You** may with **Our** prior consent arrange for a third party (for example, a leasing company) to discharge **Your** payment obligations under the **Contract**, in which case **We** may vary the date on which payment in respect of any Equipment falls due.

8 STAFF AND CONTRACTORS

- 8.1 **We** will ensure that **Our** staff employed in the provision of **Service** possess the reasonable skills and experience required to perform the Services. **We** reserve the right to replace any staff assigned to the provision of the **Service**.
- 8.2 Where any part of the **Service** is to be provided at **Your** premises, **You** shall ensure that **Our** staff and **Contractors** have a safe place to work, and **You** shall notify **Us** of any health and safety rules which apply to **Your** premises. **We** will use **Our** reasonable endeavours to ensure that **Our** staff and contractors comply with such rules when working on **Your** premises.
- 8.3 **You** shall not, without **Our** prior written consent, initiate recruitment of any of **Our** field engineers during the life of, or for a period of 6 months from expiry or termination of, the **Service**. If **You** breach this Clause 8.3, **You** shall pay **Us** a sum equal to 12 months' current gross salary of the field engineer in recognition of the value of that field engineer to **Us**. The parties agree that this sum is a genuine pre-estimate of the loss likely to be suffered by **Us** in these circumstances.

9 DATA PROTECTION AND CONFIDENTIALITY

- 9.1 Both parties shall comply with the Data Protection Act 1998, Data Protection Act 2018 and the General Data Protection Regulation ((EU) 2016/1679), or any successor legislation.
- 9.2 Subject to Clause 9.3 below, neither party shall, without the authority of the other, disclose to any third party any confidential information concerning the software, licensees, business, accounts, finance, or contractual arrangements, or other dealings, transactions, affairs, or plans of the other which may come to that party's knowledge in the course of performing its duties under the **Contract**.
- 9.3 **You** agree that **We** may disclose any information **We** hold on **You** to any third party where necessary to provide, or enable the provision of, the **Service**, or to comply with any disclosure required by law, any court, or any regulatory authority.

10 SERVICE DURATION

We will provide the **Service** to **You**, from the start date specified on the **Order Form**, for the duration of the **Initial Contract Term**. After the **Initial Contract Term** has expired, **We** will continue to provide the **Service** to **You** on an automatic basis in successive terms of the same length as the **Initial Contract Term** until either party terminates the **Service** by giving not less than three calendar months written notice prior to expiry of the **Initial Contract Term** or any successive terms.

11 SERVICE SUSPENSION

- 11.1 By giving such notice to **You** as is reasonably practicable in the circumstances, **We** may suspend the **Service** (or any part of the **Service**) and / or any other **Service** (or **Services**) that **We** are providing to **You**:
- 11.1.1 for operational reasons in accordance with the service levels as stated in the **Service Description**; or
- 11.1.2 if **We** are obliged to comply with the order, instruction, or request of a court, government, agency, emergency service organisation, or other competent administrative or regulatory authority, requiring suspension to the **Service**; or

- 11.1.3 if **Your** use of the **Service** may damage or disrupt the proper functioning of the infrastructure and / or equipment used to provide **Services** to **Our** other customers; or
- 11.1.4 if **We** have reasonable grounds to believe that **You** are in breach of **Your** obligations (including **Your** obligation to pay **Charges**), and **You** either fail to remedy that breach or fail to demonstrate to **Our** reasonable satisfaction that no breach took place within five (5) Working Days of written notice of the suspected breach.
- 11.2 Suspension of the **Service** under Clauses 11.1.2 - 11.1.4 above shall be excluded from **Our** service level obligations under the **Contract**, and such suspension of the Service shall continue for as long as any of the circumstances in clauses 11.1.2 - 11.1.4 above continue.

12 **TERMINATION**

- 12.1 **Our** provision of any **Services** and / or products under the **Contract** is subject to **Us** undertaking scoping work. Where **We** determine pursuant to such scoping work that **We** cannot provide any **Service** and / or product, **We** shall be entitled to immediately terminate the **Contract** and refund any payments made by **You** under that **Contract** to the extent that **You** have not received value in the form of **Equipment** and/or **Services**.
- 12.2 Subject to clause 12.4, either party may terminate the **Contract** by providing three calendar months written notice prior to expiry of the **Initial Contract Term** or any successive terms in accordance with clause 10.
- 12.3 If **You** wish to terminate the **Contract** before expiry of the **Initial Contract Term** or any successive terms, **You** will be required to pay the **Early Termination Fee**.
- 12.4 Without affecting any other right or remedy available to **Us**, **We** may terminate the Contract with immediate effect by giving written notice to **You** if:
- 12.4.1 **You** fail to pay any amount due under the Contract on the due date for payment; or
- 12.4.2 there is a change of Control of the Customer.
- 12.5 **Both parties** shall have the right, by giving written notice to **the other party**, to terminate the **Contract** immediately if **the other party**:
- 12.5.1 commit any material breach of **its** obligations, and fail to remedy that breach within 28 (twenty- eight) days of written notice of that breach (the 28 (twenty- eight) day period only applies where a breach is capable of remedy; if it is incapable of remedy, the **Contract** may be terminated by written notice straight away); or
- 12.5.2 has a winding up petition presented, or enter into liquidation whether compulsorily or voluntarily (otherwise than for the purposes of amalgamation or reconstruction without insolvency), or make an arrangement with **its** creditors or petitions for an administration order, or have a receiver or manager appointed over any of **its** assets, or generally become unable to pay **its** debts within the meaning of section 123 of the Insolvency Act 1986.
- 12.6 On termination of the **Contract** any rights of either party which arose on or before termination shall be unaffected.
- ## 13 **CONSEQUENCES OF TERMINATION**
- 13.1 On termination or expiry of the Contract:

- 13.1.1 **You** shall immediately pay to **Us** all outstanding unpaid invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, **We** shall submit an invoice, which shall be payable by You immediately on receipt;
- 13.1.2 **You** shall return all Hardware, Equipment and other materials of **Ours**. If **You** fail to do so, then We may enter the Customer's premises and take possession of them. Until they have been returned, You shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Contract.
- 13.1.3 Termination or expiry of the Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 13.1.4 Any provision of the Contract that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Contract shall remain in full force and effect.

14 LIMITATION OF LIABILITY - THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.

- 14.1 **We** have obtained insurance cover in respect of **Our** own legal liability for individual claims not exceeding £10,000,000 per claim. The limits and exclusions in this clause reflect the insurance cover **We** have been able to arrange, and **You** are responsible for making **Your** own arrangements for the insurance of any excess loss.
- 14.2 References to liability in this clause include every kind of liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 14.3 Nothing in this clause shall limit **Your** payment obligations under the Contract.
- 14.4 **We** do not exclude or limit **Our** liability for:
- 14.4.1 death or personal injury caused by **Our** negligence; and / or
- 14.4.2 breach of the obligations arising from section 12 of the Sale of Goods Act 1979 (seller's implied undertaking as to title, etc.); and / or
- 14.4.3 breach of the obligations arising from section 2 of the Supply of Goods and Service Act 1982 (implied terms about title, etc. in certain contracts for the transfer of property in goods); and / or
- 14.4.4 fraud or fraudulent misrepresentation.
- 14.5 **Subject to clause 14.4, Our** total liability to **You** shall not exceed 100% of the Charges payable by **You**.
- 14.6 The following types of loss are wholly excluded:
- 14.6.1 loss of profits.
- 14.6.2 loss of sales or business.
- 14.6.3 loss of agreements or contracts.
- 14.6.4 loss of anticipated savings.
- 14.6.5 loss of use or corruption of software, data or information.
- 14.6.6 loss of or damage to goodwill; and
- 14.6.7 indirect or consequential loss.

14.7 Unless **You** notify **Us** that **You** intend to make a claim in respect of an event within the notice period, **We** shall have no liability for that event. The notice period for an event shall start on the day on which **You** became, or ought reasonably to have become, aware of the event having occurred and shall expire 3 months from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

14.8 Except as expressly stated on the **Order Form**, all warranties, conditions, obligations, or implied terms which are implied into the **Contract** by statute, custom, or law are hereby excluded to the maximum extent permissible in law.

14.9 This clause 14 shall survive termination of the **Contract**.

15 **NON-SOLICITATION**

15.1 During the term of this **Contract** and for 12 months after its termination, **You** shall not, without **Our** prior written consent, solicit, induce or attempt to hire any of **Our** employees or contractors who are or were materially involved in the provision of the **Services** to **You** in the 12 months prior to termination.

15.2 This clause shall not apply where an individual responds to a general recruitment advertisement not specifically targeted at them.

16 **FORCE MAJEURE**

Neither party shall be liable for any delay or failure in the performance of its obligations for so long as and to the extent that such delay or failure results from a **Force Majeure Event**. The affected party shall promptly notify the other party in writing of the start of a **Force Majeure Event** and shall use reasonable endeavours to limit the effect of the **Force Majeure Event** on the performance of its obligations.

17 **SUBCONTRACTING AND ASSIGNMENTS**

17.1 **We** may subcontract **Our** rights and obligations under the **Contract** only once notice has been given to **You** and with **Your** prior written consent.

17.2 **You** shall not assign or otherwise transfer the **Contract** or any of **Your** rights and obligations under the **Contract** whether in whole or in part without **Our** prior written consent.

18 **ENTIRE AGREEMENT**

18.1 The **Contract** supersedes any prior **Contracts**, arrangements and undertakings between the parties in relation to the subject matter of the **Contract** and constitutes the entire agreement between the parties relating to that subject matter.

18.2 **You** agree that **You** will have no remedy in respect of any untrue statement made to **You** upon which **You** relied in entering into the **Contract**, unless the statement was made fraudulently.

19 **WAIVER, NOTICES, AND SEVERANCE**

19.1 No delay, neglect, or forbearance by either party in enforcing its rights under the **Contract** shall be a waiver of or prejudice those rights.

- 19.2 All notices under the **Contract** shall be in writing and shall be sent to the address of the recipient specified on the **Order Form** or to such other address as the recipient may have notified from time to time.
- 19.3 Any notice shall be deemed to have been received:
- 19.3.1 if delivered by hand, at the time the notice is left at the proper address;
- 19.3.2 if sent by pre-paid first-class post or other next working day delivery service, at 10.00 am on the second **Working Day** after posting; or
- 19.3.3 if sent by email at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. 'Business hours' means 9.00am to 5.00pm Monday to Friday on a day that is not a public holiday in the place of receipt.
- 19.4 If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this agreement. If any provision or part-provision of this **Contract** is deleted under this clause the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

20 **DISPUTES**

- 20.1 The parties shall attempt to resolve any dispute arising out of or relating to the **Contract** through negotiations between senior executives of the parties who have authority to settle the same.
- 20.2 If the matter is not resolved through negotiation, the parties will attempt to resolve the dispute in good faith through an Alternative Dispute Resolution ("ADR") procedure as recommended to the parties by the Centre for Effective Dispute Resolution.
- 20.3 If the matter has not been resolved by an ADR procedure within 30 (thirty) days of the initiation of that procedure, or if either party will not participate in an ADR procedure, the dispute shall be decided by the English courts, and the parties submit to its exclusive jurisdiction for that purpose.
- 20.4 The **Contract** shall be governed in accordance with the laws of England and Wales.

21 **ORDERING PROCESS**

- 21.1 Submit a request to **Us** for products and / or **Services**;
- 21.2 **We** will consider **Your** request and may decide to undertake some scoping work. The scoping work enables **Us** to determine whether or not **We** are capable of providing the products and / or **Services** that **You** have requested. If the scoping work reveals that **We** will need to make some changes, **We** will reflect those changes on the **Order Form**;
- 21.3 If **We** choose to proceed with Your order, **We** will send **You** an **Order Form**. The **Order Form** will detail the products and / or **Services** that **You** have requested;
- 21.3.1 The **Order Form** may be presented as an email attachment which needs to be printed off, signed and either scanned or faxed back to **Us**, or a link to an e-document that enables electronic confirmation "signature";

- 21.4 **You** should review the **Order Form** and make sure **You** are happy with the content. If **You** wish to make any changes, please let **Us** know and **We** will reissue an amended Order Form if appropriate;
- 21.5 Once **You** are happy with the content, **You** should sign the **Order Form** (and a Direct Debit mandate if one is not already on file) and return it to **Us** within 30 (thirty) days from the date of the **Order Form** (otherwise **We** may wish to reissue the **Order Form**, or confirm that it is still valid). When **We** receive the signed and completed **Order Form**, a legally binding **Contract** will come into existence between **You** and **Us**.

Service Specific Terms

SECTION A: IT Managed Services

1 SERVICE DESCRIPTION

- 1.1 Provision of Service Desk Support Services for **Your Network**, including infrastructure, servers and PC support, maintenance and monitoring.

2 SERVICE LIMITATIONS AND EXCLUSIONS

- 2.1 The **Service** is provided only for the **Supported Software** across **Your Network**.
- 2.2 The **Service** excludes support for faults that relate to any modification or unauthorised use of **Your Network** or the Supported Software.
- 2.3 The **Service** excludes support for faults that relate to misuse, damage, unauthorised repairs, unsuitable environmental conditions, relocation, power failures, lightning or weather damage; use with unauthorised equipment and breach of **Your** obligations under the **Contract**.
- 2.4 Where an excluded fault is reported, **You** will pay the applicable call-out and hourly rates.

3 CHARGES

- 3.1 Unless otherwise agreed, **You** shall pay the **Charges** by Direct Debit monthly in advance starting on the start date specified on the **Order Form**.

4 YOUR OBLIGATIONS

- 4.1 **You** shall:
 - 4.1.1 not let anyone other than **Us** provide support for the **Supported Software** across **Your Network**;
 - 4.1.2 keep full and up-to-date secure offsite backup copies of the data on **Your Network** in accordance with best industry practice; and
 - 4.1.3 provide **Us** with such information and materials as we may reasonably require to supply the **Services**.
- 4.2 **You** shall notify Us in writing if there is any change to the network administrator specified on the **Order Form**. Such notice shall specify the full contact details of any new network administrator.

SECTION B: IT PROFESSIONAL SERVICES

1 SERVICE DESCRIPTION

- 1.1 Provision of IT professional services to **Our IT Managed Services** customers, including, for example, field engineering, remote support, training, programming / software development, and consultancy. Professional services can be provided pursuant to an **Order Form** or can be 'ad hoc' where they are not provided

pursuant to an **Order Form**. Where professional services are 'ad hoc' they are provided on a time and materials basis.

2 SERVICE

- 2.1 Where the **Service** is provided pursuant to an **Order Form**, **We** will provide the **Service** on a fixed price basis in accordance with that **Order Form**. For a period of 10 (ten) **Working Days** from completion of the **Service**, **We** will correct any material non-conformities of the **Service** with the originally agreed scope of work.
- 2.2 Where the **Service** is the provision of 'ad hoc' professional services, **We** will provide the **Service** on a time and materials basis and as agreed by **You** and **Us**. **You** shall accept the provision of such 'ad hoc' professional services by reviewing and signing **Our** job sheet.
- 2.3 Professional services provided by **Us** which address any issues which are out of scope of another **Service**, shall be provided by **Us** as chargeable professional services under this Section B.

3 CHARGES

- 3.1 Where the **Charges** are calculated on a time and materials basis, the time spent on providing the **Service** shall be determined by the time shown on the job sheet which shall be signed by **You** and returned to **Our** field engineer at the end of each day during which the **Service** is provided. The **Charges** shall be determined by multiplying the time shown on the job sheet by **Our** current standard hourly or daily rate (whichever is applicable) for the role type specified at the agreed rate.
- 3.2 **You** shall pay the **Charges** in accordance with this Clause 3, and the **Order Form** (if any).

4 YOUR OBLIGATIONS

- 4.1 **Where** software development forms part of the **Service**, if **We** request **You** to do so, **You** shall provide **Us** with a non-live version of the relevant computer system on which to provide the **Service**.
- 4.2 Where the **Service** is to be carried out on **Your** computer system, **You** are, at all times, responsible for keeping full and up-to-date secure offsite back-up copies of all data and software in accordance with best industry practice. **We** shall not be liable for any failure by **You** to abide by the terms of this Clause 4.2.

5 INTELLECTUAL PROPERTY RIGHTS

- 5.1 Where the **Service** involves the creation or development of any deliverable (e.g. software development, creation of user manuals):
 - 5.1.1 all copyright and other intellectual property rights in those deliverables will, at all times, remain vested in **Us**; and
 - 5.1.2 **We** grant to **You** a non-exclusive, non-transferable, irrevocable right to modify, adapt, use, and sublicense those deliverables for **Your** own internal business purposes.

SECTION C: CLOUD AND DATA SERVICES

1 SERVICE DESCRIPTION

- 1.1 Provision of new domain name registrations, domain name transfers, domain name system services, web and server hosting services and the resell of cloud-hosted IT services.

2 CHARGES

- 2.1 **You** shall pay the installation charge and ongoing **Charges** in accordance with the **Order Form**.

3 HOSTING

- 3.1 Where hosting forms part of the **Service**, **You** grant to **Us** a licence for the duration of the **Service** to:
- 3.1.1 host the material to be hosted by **Us** pursuant to the provision of the **Service**; and
- 3.1.2 remove or amend any material contained in the hosted material that breaches the **Contract**.
- 3.2 Domain names are subject to availability.

4 YOUR OBLIGATIONS

- 4.1 **You** shall keep full and up-to-date secure back-up copies of **Your** data which is received, transmitted, hosted, or otherwise processed by **Us** pursuant to the Service, in accordance with best industry practice.
- 4.2 If **You** exceed **Your** allocated monthly data limit, **Additional Charges** may apply.

SECTION D: IT HARDWARE AND SOFTWARE SUPPLY AND MOBILE SERVICES

1 SERVICE DESCRIPTION

- 1.1 Provision of third-party IT hardware and / or software including mobile phone contracts and devices.

2 HARDWARE AND SOFTWARE

- 2.1 **We** will deliver the **Hardware** and the **Third Party Software** to **You** on the delivery date notified to **You**, at the site as specified on the **Order Form**.
- 2.2 On delivery of the **Hardware** and **Third Party Software** to **You**, full risk of damage to, or loss of, the **Hardware** and **Third Party Software** shall pass to **You**.
- 2.3 Subject to clause 2.4, upon full payment of the **Charges**, title in the **Hardware** and the medium on which the **Third Party Software** is stored shall pass to **You**. If the **Charges** are not paid in full then title in **Hardware** and the medium on which the **Third Party Software** is stored shall not pass and, without prejudice to **Our** other rights and remedies, **We** reserve the right to recover or resell the **Hardware** and the medium on which the **Third Party Software** is stored and, for that purpose, **You** grant to **Us** a licence to enter upon the premises where the **Hardware** and the **Third Party Software** are stored. **You** undertake to keep the **Hardware** and the medium on which the **Third Party Software** is stored wholly identifiable and distinguishable from other goods until full payment of the **Charges**.
- 2.4 Ownership of any SIM cards in relation to the Hardware shall remain with **Us**.

2.5 We reserve the right prior to delivery of the **Hardware** to substitute an alternative item of hardware for any hardware specified on the **Order Form**, provided that such substitution will not materially affect the performance of such hardware and will not result in any increase in the **Charges**.

2.6 On **Our** request, **You** shall return to **Us** all packing materials used for delivering the **Hardware** and the **Third Party Software** to **You** in good condition and at **Your** expense as soon as reasonably possible after delivery. **We** reserve the right to charge for any such packing materials not so returned.

3 **CHARGES**

3.1 Within 2 (two) **Working Days** of delivery of the **Hardware** and / or **Third Party Software** the **Charges** shall be paid by **You** in full by cheque or electronic transfer funds unless otherwise stated on the **Order Form**.

3.2 Unless otherwise agreed, **You** shall pay the ongoing **Charges** by Direct Debit monthly in advance starting on the start date specified on the **Order Form**. Usage-based charges will be charged monthly in arrears.

3.3 If **You** fail to achieve the minimum spend for the call charges in any calendar month as specified in the **Order Form**, **You** shall pay to the Company the difference between the actual value of the call charges and the minimum spend.

4 **LIMITATIONS AND EXCLUSIONS**

4.1 **Your** right to use and deal with the **Third Party Software** is governed by any licence terms applicable to the **Third Party Software**. It is **Your** sole responsibility to agree to and enter into any such licence with the owner of the intellectual property rights in the **Third Party Software**.

4.2 Nothing under the **Contract** shall be construed as having the effect of assigning, transferring, or dealing with any copyright, patent, or any other intellectual property rights in the **Third Party Software**.

4.3 **We** may change telephone numbers where required for operational, technical or regulatory reasons. **You** will not acquire any rights whatsoever in telephone numbers **We** allocate to **You**. **We** reserve the right to charge an additional fee in respect of the allocation of certain numbers.

4.4 International roaming is only available in countries where **We** or **Our** suppliers have roaming agreements, and it may be subject to additional third-party terms that can affect the **Service**.

5 **WARRANTIES**

5.1 Within 2 (two) **Working Days** from the delivery date **You** shall inspect the **Hardware** and any medium on which the **Third Party Software** is stored, including any accompanying documentation, and notify **Us** of any defects in delivery.

5.2 If **You** accept delivery of the **Hardware** and **Third Party Software**, and do not notify **Us** of any defects under Clause 5.1 above, **You** shall not be entitled to reject the **Hardware** and **Third Party Software**.

5.3 Except as provided under Clause 5.2 above, the **Hardware** and **Third Party Software** is sold on an 'as is' basis, and **You** assume the entire risk as to the related functionality, performance, and quality.

- 5.4 Unless the **Order Form** specifies a longer period, for a period of 12 (twelve) months from delivery of the **Hardware**, **We** warrant that the **Hardware** shall operate in accordance with its manufacturer's documentation. In the event of **Hardware** failure within this period, **You** shall promptly notify **Us** in writing whereupon, after a reasonable opportunity to examine such **Hardware**, **We** shall replace or repair the **Hardware** in accordance with the manufacturer's documentation within a reasonable period of time.
- 5.5 **We** shall not be liable for the **Hardware's** failure to comply with its manufacturer's documentation in any of the following events:
- 5.5.1 the defect arises as a result of fair wear and tear, negligence, wilful damage or abnormal storage or working conditions;
- 5.5.2 the defect arises as a result of **Your** failure to use the **Hardware** in accordance with instructions or good trade practice.
- 6 **YOUR OBLIGATIONS**
- 6.1 **You** must not use any equipment or method that routes calls in an unauthorised way or engage in any activity that artificially increases traffic volumes.
- 6.2 If **Your** equipment or usage adversely affects network performance or is suspected of being involved in fraudulent or illegal activity, we may block access to the **Service**.
- 6.3 Usage alerts and spending limits are only applied at **Your** request. If **You** exceed **Your** allocated monthly limits, **Additional Charges** may apply.
- 6.4 **You** are responsible for the payment of all roaming charges. **You** are advised to check with **Us** which roaming charges may apply if travelling abroad.

SECTION E: CALLS AND LINE SERVICES

1 **SERVICE DESCRIPTION**

- 1.1 Provision of calls and line services, including voice safe services, ISDN telephone services, ethernet services, line safe services and any other call and line services as specified in the **Order Form**.

2 **SERVICE**

- 2.1 If the **Service** includes call recording services in the **Order Form**:
- 2.1.1 **You** warrant that **You** have authorised **Us** to act on your behalf in respect of any call recordings.
- 2.1.2 **You** are responsible for downloading the call recordings and for the content within any call recordings and **You** shall ensure such content complies with the requirements of any applicable legislation.
- 2.1.3 In order to provide any call recording service, each call must be operated over a network supplied by **Us**.
- 2.1.4 **You** shall notify **Us** of all numbers you require to be recorded, and **You** are responsible for notifying **us** of any changes to such numbers.
- 2.1.5 **You** acknowledge that **We** have no obligation to review or edit any of the call recordings.
- 2.1.6 **We** may charge for storage of any call recordings at **Our** current rate and automatically delete recordings on termination of this storage period or the **Services**.
- 2.1.7 **You** acknowledge that **We** reserve the right to access, retain and disclose any call recordings.
- 2.2 If the **Service** includes line safe services in the **Order Form**:

- 2.2.1 Provided that the line rental is billed by **Us**, **We** will manage fault reporting to Openreach and cover Openreach call-out charges where a fault is found on Openreach's network.
- 2.2.2 Line safe services do not cover faults found to be caused by **Your** equipment, wiring, or damage, missed appointments where an engineer cannot access the site, engineering visits relating to broadband services or installation/rearrangement of services and charges applied by Openreach for reasons other than a verified network fault.

3 **YOUR OBLIGATIONS**

- 3.1 **You** agree to route all of **Your** calls to the Company for the duration of the **Contract**, and if requested **You** shall arrange for any equipment to be reprogrammed to enable or disable access. **We** shall not have any responsibility in relation to such reprogramming.
- 3.2 **You** must take all reasonable steps to secure **Your** own equipment and minimise the risk of fraud.
- 3.3 **You** shall comply with any requirements relating to number portability. Number porting is subject to industry processes, availability, and the cooperation of the existing provider.

4 **OUR OBLIGATIONS**

- 4.1 If the Service includes voice safe services, **We** will use reasonable efforts to detect and block suspected fraudulent outbound calls.
- 4.2 If **You** experience call fraud on numbers included within the **Service** and billed through **Our** network, **We** will reimburse fraud charges above £125 up to a maximum of £10,000, subject to any conditions set out in the **Order Form**.
- 4.3 **We** are not responsible for any faults caused by **Your** misuse of the **Service** or failure to follow instructions.
- 4.4 **We** may change telephone numbers where required for operational, technical or regulatory reasons. **You** will not acquire any rights whatsoever in telephone numbers **We** allocate to **You**.
- 4.5 **We** will use reasonable endeavours to provide continuous access to any call recordings stored by **Us** as part of the **Service**, but **We** cannot guarantee all calls will be recorded, and **We** cannot be liable for any lost, corrupted or failed recordings.

5 **CHARGES**

- 5.1 Unless otherwise agreed, **You** shall pay the **Charges** specified in the **Order Form** by Direct Debit monthly, quarterly or annually (as the case may be) in advance starting on the start date specified on the **Order Form**. **You** are responsible for all charges incurred through use of the **Services**.

SCHEDULE 1 - ADDITIONAL PAYMENTS

Where applicable, **We** may apply one-off **Charges** in connection with the provision of the **Service**, including (but not limited to) **Installation Services**, configuration, migration, engineering works, equipment, or any additional work requested by **You** outside the standard scope of the **Service**.

Any such one-off **Charges** may be specified on the **Order Form**, in Schedule 1, or otherwise notified to **You** in writing. Where one-off **Charges** are not expressly stated as fixed, they may be calculated on a time and materials basis at **Our** then-current standard rates.

Any quotation, estimate, or pricing indication provided in respect of one-off **Charges** is given for guidance only and shall not be binding unless expressly confirmed in writing by **Us**.

All prices are subject to change from time to time. Any prices expressed as "from" shall be deemed indicative only and may vary depending on the specific requirements, scope, configuration, or complexity of the **Service**.

We shall be entitled to invoice for one-off **Charges** as and when they become payable, including in advance of the relevant **Service** being carried out where applicable. Unless otherwise stated on the **Order Form**, payment of one-off **Charges** shall be due in accordance with Clause 7.

Where **You** request any changes, additional work, or **Services** outside the agreed scope of the **Contract**, such work shall be subject to **Additional Charges**.

You acknowledge that one-off **Charges** may vary depending on site conditions, third party dependencies, or unforeseen technical requirements identified during delivery.

Table of Additional Charges

Charge Description	Cost
Abortive Engineer Charge	£150.00
Broadband Cease	£40.00
Broadband Install	£200.00
Broadband Migration	£40.00
Broadband Order Cancellation	£40.00
Broadband Regrade	£40.00
Cancelled/Rejected Direct Debit	£15.00

Dedicated Fibre Install (TTU)	£200.00
Dedicated Fibre Order Cancellation	£500.00
Early cancellation fee	£30.00
Late Payment charge	£15.00
Mobile Connection	£35.00
Mobile Hardware Configuration	£35.00
Non Direct Debit administration charge	£15.00
Number Port Away Fee	£10.00
Number Port Fee - Multi	£75.00
Number Port Fee - Multi (11 or more DDIs)	£150.00
Number Port Fee - Rejected	£20.00
Number Port Fee - Single	£20.00
Number Port Fee - Single (OOH)	£150.00
Number Swap	£30.00
SIP Number Connection	£1.00
SIP Trunk Call Manager Connection	£100.00
SIP Trunk Cease	£40.00
SIP Trunk Connection	£100.00
Tariff Downgrade Fee	£35.00
Early Termination Fee	Calculated based on monthly cost and remaining contract term