

Talksolution Terms and Conditions

By using any of our Services or any Equipment provided by Talksolution you confirm you agree to the terms of this Agreement so you should read them carefully.

SECTION A: PRELIMINARY

- 1 **Definitions:** The glossary at the end of these Terms contains the meanings of expressions used in these Terms.
- 2 **Incorporation:** These Terms are incorporated into: (1) any contact or communication between Us and You: and/or (2) each Contract (irrespective of how it is formed).
- 3 **Affiliates:** You will be responsible for any sales or other orders placed by any company within the same corporate group of companies as You, and such sales or other orders will be subject to these Terms.
- 4 **Contract formation:**
 - 4.1 The Contract comprises these Terms and the Quotation and, if specifically stated in the Quotation, the Proposal.
 - 4.2 Except as otherwise stated in these Terms or any Special Condition, a Contract is intended to form as set out in Term 10.1.
 - 4.3 Your application for any Equipment and/or Software and/or Services is subject to: (1) You passing a UK credit check if We deem one appropriate: (2) Your consent to Us submitting Your details to a credit reference agency for this purpose: and (3) You signing the Quotation for such Equipment and/or Software and/or Services.
- 5 **Instalments**

If We supply Equipment and/or Software and/or Services to You in instalments, we reserve the right to treat these Terms and other applicable terms as applying to each installment as if there was a separate Contract for each installment.
- 6 **Conflicting terms:**
 - 6.1 Subject to Term 22.1: (1) the express written contents of these Terms will prevail over any conflicting or inconsistent statements, statutory or contractual or other warranties whatsoever, or terms and conditions of any kind whatsoever - in each case whether implied or otherwise: and (2) the order of priority in case of a conflict between the terms of a Contract is as follows: - (a) Special Conditions, and (b) Terms. No terms other than the Special Conditions and Terms are incorporated into the Contract.
 - 6.2 For the avoidance of doubt, any terms contained in Your documents or communications or website or otherwise are fully excluded from any Contract between Us (except to the extent incorporated expressly into the Contract as a Special Condition).
- 7 **Your authority & capacity:** You warrant and represent that: (a) You have all necessary consents, authority and capacity to order from Us (and enter into and perform each Contract) under these Terms: and (b) You are entering into the Contract for the purposes of Your business, trade or profession.
- 8 **Good faith co-operation:** You warrant, represent and undertake to fully co-operate with Us in good faith in respect of: (1) seeking a reasonable solution to any dispute between You and Us in relation to the Contract: and/or (2) for the effective application and enforcement of the Contract.

SECTION B: EQUIPMENT, SOFTWARE AND SERVICES

- 9 **Supply**
 - 9.1 The specific Equipment and/or Software and/or Services to be sold, rented, licensed or supplied to You under a Contract, are stated in the Quotation. In addition to Services stated in the Quotation, Remote Support Services may be provided upon request and Our Standard Charges will apply based on the requirements.
 - 9.2 Any Equipment and/or Software and or Services advertised by Us is subject to stock and availability.

- 9.3 At Our sole discretion We may perform and Contract through any one or more sub-contractors and/or agents and/or representatives, subject always to Term 22. We will be responsible for the acts and omissions of: (1) sub-contractors, to the extent that their acts or omissions cause Us to be in breach of contract but not otherwise; and (2) agents and representatives, to the extent that We are liable for their acts or omissions under law.
- 9.4 If You purchase and Equipment and/or Software and/or Services with the aid of third-party funding, then such third party's terms may apply to such purchases (which You must comply with).
- 9.5 TalkSolution Ltd will use its reasonable (but financially and commercially prudent) endeavours to ensure that: (1) Equipment and/or Software when delivered is in full working order and performs with the manufacturer's specification; and (2) Services are supplied with reasonable skill.
- 9.6 If for factors outside Our Control, we cannot deliver the Services Equipment or Software detailed in the Quotation we may at Our 9.6 discretion supply You with an alternative.
- 9.7 We will inform you if the alternative will cost more than that detailed in the quotation. We may in such circumstances give You the option to cancel the Order within 7 days of Us informing You of the increased cost of the alternative subject to You reimbursing Us for any third-party costs already incurred in relation to Your order. We may, alternatively, at our discretion offer to pay such extra costs incurred in using the alternative.
- 9.8 Such offer being subject to requiring You to reimburse Us any such costs should You terminate or purport to terminate the Contract before the end of the Contract Period for any reason.

10 Commencement & Duration:

- 10.1 A Contract commences on the earlier of: (1) the date of You signing the Quotation (2) the delivery of the Equipment or Software or commencement of the Services, and unless terminated in accordance with Term 23, continue in force for the Minimum Contract Period and any Extended Contract Periods.
- 10.2 Contracts automatically renew unless notice is given by You to terminate in accordance with Term 23.

11 Suspension Rights:

- 11.1 Without prejudice to any of Our other rights or remedies, if You are unable or unwilling to comply with any obligation under the Contract, or if We receive notice of or become aware of any illegal, fraudulent or unauthorised use of the Services, we may for any period of time suspend or discontinue supply (or procure the such suspension or discontinuance of) of any Equipment and/or Software and/or Services permanently or temporarily until You have complied with any obligations stipulated by Us or put in place any appropriate technical, organisational, security or other measures We require to prevent any further unauthorised use of Services.
- 11.2 You will remain liable for the payment of charges for the Services whilst the Services are suspended in accordance with Term 11.1.
- 11.3 We reserve the right to charge You a reasonable fee for reconnection.
- 11.4 Where We have the right to suspend Services under Term 11.1 and the conditions which we require in order to lift the suspension or recommence the provision of Services under Term 11.1 have not been met within 30 days of the date on which we suspended the Services. We will be entitled to terminate the Contract immediately or on such other notice as We may consider appropriate in the circumstances.

12 Delivery & Acceptance:

- 12.1 All delivery and performance dates, times and periods are estimates only. Subject to this Term 12.1 and Terms 18 and 22.1:
- 12.1.1 We will exercise all reasonable but financially and commercially prudent endeavours to ensure that ordered Equipment and/or Software will be delivered and/or Services performed on or by the date stated or confirmed in the applicable Quotation or otherwise expressly confirmed in writing but factors outside our control can cause delays.
- 12.1.2 As all delivery and performance dates, times and periods are estimates only and are subject to survey, we may extend such dates, times and periods if necessary. We will update You as soon as possible of any revisions to such estimates. An extension from the original estimated time will not give You the right to cancel the Contract unless We have agreed otherwise in the Quotation. In the case of an extension of over 12 weeks beyond the original estimated time for delivery and/or performance we may, at our sole discretion (1) have an Alternative supplied to You as set out in Terms 9.6 and 9.7: or (2) if there is no appropriate alternative, terminate the Contract and refund any payment made by You under that Contract to Us but retain a sum equal to any third party costs already incurred by Us .

- 12.1.3 Any delays caused by You such as not allowing access to a property for a Survey will not give rise to any cancellation or termination rights.
- 12.2 You will be deemed to have accepted the Equipment and/or Software once it has been delivered to You or, if earlier, You have taken possession of it.
- 12.3 If You are unable or unwilling to accept delivery of Equipment on the agreed delivery date or within the agreed delivery period, we may choose to do any of the following (without prejudice to any of Our rights or remedies): (1) store or arrange the storage of the Equipment until actual delivery to You (at Your risk and cost of storage and insurance); or (2) sell and deliver the Equipment to a third party (or otherwise dispose of the Equipment) if We reasonably believe that You will not be able or willing to take delivery within 10 days of the agreed delivery date or agreed delivery period (with the Equipment being stored at Your risk and cost of storage and insurance until expiry of the said 10 days).
- 12.4 If We sell the Equipment to a third party (or otherwise dispose of it) as set out in Term 123 and You have already paid for such Equipment in full or in part, We shall use the proceeds We receive less any costs incurred as set out in Term 123 and a reasonable charge for Our management time to reimburse You any such sum or proportion of such sum according to the sale price We have achieved for the Equipment.

13 Risk & Title:

- 13.1 Risks of any damage to or loss of the Equipment (and the responsibility to insure the Equipment) in respect of a Contract will pass to You on delivery (whether or not You have or are required to pay for the Equipment). However, You will own the Equipment purchased from Us only when: (1) You have paid for the Equipment in full cleared funds; and (2) You have paid all other amounts due under or in relation to that Contract in cleared funds.
- 13.2 Until You have made the payments under Term 13.1 (1) and/or Term 13.2 (2), You will: (1) as Our fiduciary agent and bailee keep the Equipment separately stored and identified as Our property, in the same condition as You received the Equipment; and (2) not allow the Equipment to become subject to any distress, execution, pledge, lien, mortgage, charge or any other security interest or third party right or any other encumbrance of any kind whatsoever.
- 13.3 Where Equipment is provided to You on a free of charge basis, then notwithstanding delivery and acceptance of the Equipment, title in the Equipment will remain with Us until the Contract Period has expired (after which We may ask for the Equipment to be returned to Us or as we direct in writing). Following any upgrade of Equipment or disconnection of the Equipment from any Service, We will reserve the right to request the safe return of the Equipment from You to Us. You will keep the Equipment in good working order during the period of use by or on Your behalf. We reserve the right to charge You any applicable replacement or repair charges for any Equipment that is not returned to Us in accordance with the provisions of these Terms.
- 13.4 You will not in any event become the owner of the source code to any Software, and have no right to see or obtain it (until and unless We expressly agree otherwise in writing at Our sole discretion).

14 Defects or faults:

- 14.1 If You (in good faith and acting reasonably) are not satisfied with the standard of the supplied Equipment and/or Software and/ or Services the following will apply (subject to Term 22.1).
- 14.2 Any apparent or reasonably apparent defects, fault or damage to Equipment must be notified to Us within 24 hours of delivery. Any other type of defect, fault or damage must be notified to Us within 24 hours of You becoming aware of the same.
- 14.3 Any reasonable dissatisfaction in Services provided must be notified to Us within 24 hours of those Services being performed.
- 14.4 You will arrange with Us for appropriate inspections and/or tests to be carried out. You will also give Us and Our officers, employees, agents and representatives full access to all of Your personnel, information, data, records and materials reasonably required by or on behalf of Us for such inspections and/or tests.
- 14.5 In the case of Equipment or Software. We may (at Our sole discretion and as Your sole remedy): (1) repair or replace such defective, faulty or damaged Equipment or Software; and/or (2) substitute substantially similar equipment or software; and/or (3) reimburse the price paid for the defective, faulty or damaged Equipment or Software.
- 14.6 In the case of Services, We may (at Our sole discretion and as Your sole remedy): (1) to the extent reasonably practicable, have the Services re-performed by Us or any of Our sub-contractors, agents or representatives; and/or (2) have future services performed by others as selected by Us; and/or (3) reimburse the price paid for the unsatisfactory element of the Services.

- 14.7 Where We acquire the Equipment and/ or Software and/or Services from a third party with a product or service warranty or guarantee from that third party, We will in good faith endeavour to pass on the benefit of that warranty or guarantee to You where We are legally able to do so. You must then in good faith promptly and diligently pursue any claim under such warranty or guarantee (and Our liability will be reduced by £1 for each £1 in money or money's worth You recover under such warranty or guarantee). If We make a payment or provide a credit note or discount to You before You recover any amount or value under such warranty or guarantee, then You will fully co-operate with Us to make such payment to Us as is necessary which reimburses Us for any amount or value recovered by You twice: that is from Us as well as the third party. In any event, you will keep Us fully and accurately informed of any claim You bring under such warranty or guarantee.
- 14.8 A refund will be granted within 30 days of purchase for: (1) Software supplied which is defective at the time of purchase and provided it has not been tampered with or altered in any way by You: or (2) if Term 12.1.2 applies.
- 14.9 We cannot offer refunds in the following instances: (1) Time purchased after a trial period or above the limits set out in a trial period has been used: (2) over 30 days have elapsed from the date of purchase and the above provisions of this Term 14 do not apply: (3) Software has been purchased for use on Networks not supported by Us: or (4) You have failed to comply with Term 16.1 and 16.2.
- 14.10 Where a refund is available to You, we reserve the right to charge a non-refundable administration fee if the refund is as a result of a Force Majeure Event.
- 14.11 Subject to Term 22.1, for the avoidance of doubt, we will not in any event be responsible or liable where:
- 14.11.1 The Equipment or Software has been altered in any way or been subjected to misuse or neglect (including, without limitation, being dropped in water or any other liquid or on a hard surface) or been subject to unauthorised repair:
- 14.11.2 The Equipment or Software has been used or dealt with in a manner inconsistent with (or not in compliance with) the instructions of the manufacturer of the Equipment or creator of the Software:
- 14.11.3 The Equipment or Software has been used contrary to the purpose for which it was designed:
- 14.11.4 The Equipment or Software has been used or dealt with in circumstances when the manufacturers or creator's warranty or guarantee does not apply or does not provide cover for the Equipment or Software: or
- 14.11.5 The Services are interrupted or not accessible for operational or maintenance reasons or due to any Force Majeure Event.

15 Returns for any reason:

- 15.1 Without prejudice to any of Our other rights and remedies. We reserve the right to charge a processing fee for Equipment or Software returned by You that You claim to be defective, faulty or damaged but which is either: (a) not defective, faulty or damaged: or (b) has a defect, fault or damage for which We are not responsible for under the Contract.
- 15.2 Unless otherwise expressly stated, all Equipment being returned for any reason must: (a) be accompanied by all accessories and original undamaged outer packaging: and (b) be returned with reasonable skill, care and diligence.

16 Unauthorised use of Services:

- 16.1 You will be liable for all charges incurred for the use of Services, irrespective of whether the Services have been used by You, Your employees, agents or representatives, or any unauthorised third party.
- 16.2 You are responsible for:
- 16.2.1 preventing unauthorised use of the Services and informing Your employees, agents and representatives of the cost of Remote Support Services:
- 16.2.2 maintaining the security of all systems, network elements and equipment within Your (or Your employees, agents' or contractors') control: and
- 16.2.3 maintaining (and ensuring that each of Your authorised users maintains) the integrity, secrecy and security of all passwords, log-in details and access codes used for the purposes of accessing or using the Services or any systems, network elements or equipment.
- 16.2.4 Without limiting Term 16.2.3, You are responsible for ensuring that all reasonable security measures are and remain in place to include but not be limited to following manufacturers' advice to utilise maximum security settings, blocking all 09/118 and international numbers, blocking out of hours calls, turning off features allowing auto-create of new extensions, blocking remote access and outbound calls via voicemail ports, keeping strong passwords, training staff on security measures and requiring them to act in compliance with such measures and following any reasonable directions We give You regarding security.

16.2.5 You will notify Us immediately of any illegal, fraudulent or unauthorised use of the Services. On receipt of such notice, We shall use reasonable efforts to suspend or prevent such use.

17 Your Responsibilities:

You will:

- 17.1 in good faith and acting reasonably co-operate with Us and Our sub-contractors so that We may effectively and properly perform each Contract (and are not in breach of any statutory, contractual, common law, equitable or other obligations owed to suppliers, insurers or other third parties):
- 17.2 give such documentation, information, data, assistance, support, facilities and resources (to include water, light and power) as may reasonably be required by Us from time to time to perform Our obligations:
- 17.3 ensure that We and our sub-contractors, agents and representatives (and each of Our respective officers, employees, workers, agents and representatives) are able to enter, remain in and exit Your premises during reasonable or agreed hours for the purposes of each Contract: ensure that Your premises are reasonably clean (and compliant with all Health and Safety and other mandatory laws) for workers to carry out
- 17.4 the work required under each Contract:
- 17.5 keep Us informed in writing of any fact or circumstance that will or may adversely affect Our proper performance of each Contract;
- 17.6 ensure that any information given to Us by You or on Your behalf is materially accurate, complete and not misleading;
- 17.7 notify Us immediately (to then promptly be confirmed in writing if the notification was verbal) if Your name, company name, address, bank account or credit card details change;
- 17.8 legibly and accurately provide such information and data (and within such timescales) as we may reasonably require;
- 17.9 comply with all notes, instructions, guidance and recommendations given with any supplied Equipment and/or Software and/ or Services (and/or published on any website of the Equipment's manufacturer, software's supplier or creator, Network Operator or Our own website) including but not limited to any security requirements;
- 17.10 not allow any person to adjust, modify, repair, replace or remove any Equipment (in whole or in part) from the location it was supplied to and/or installed by or on Our behalf, without Our express prior written consent;
- 17.11 not permit or suffer any of Your officers, employees, workers, agents or representatives to act or omit to act in a way which will or may injure or damage any person or person's property (or in any way will or may cause the quality of the Network or any Services to be suspended or cease to operate);
- 17.12 comply with all applicable laws concerning the use and maintenance of the Equipment and/or Software and/or Services;
- 17.13 comply with all of Our acceptable and/or fair use policies published by Us from time to time concerning Equipment and/or Software and/or Services (and available on request);
- 17.14 notify Us immediately (and confirm in writing) whenever Equipment and/or Software is lost, stolen or is used or dealt with contrary to these Terms or any other terms of any applicable Contract;
- 17.15 not allow any Equipment and/or Software and/or Services supplied to You for the direct benefit of anyone other than You (and/ or other than for Your own business purposes) without the express prior written consent of Us and if any Equipment and/or Software and/or Services are used by or for any third party in any circumstances without our express prior written consent then You shall be liable for any costs incurred in relation to such usage;
- 17.16 not allow any Equipment and/or Software and/or Services to be used in a manner or for a purpose which is abusive, defamatory, obscene, offensive, indecent, menacing, disruptive, a nuisance of any kind, illegal, immoral or infringing of any right under statute or contract or common law or equity or otherwise;
- 17.17 ensure that You have adequate measures in place to keep Your data or data that You are responsible for safe and secure;
- 17.18 ensure that You keep all applicable user names and passwords safe and secure; and
- 17.19 ensure that You are not in breach of any obligations owed to any third party when entering into and performing any Contract with Us.

18 Charges:

- 18.1 The price for the ordered Equipment and/or Software and/or Services will be as stated in (or calculated under) these Terms and/ or the Quotation. The price may need to be increased after the survey has taken place or subject to factors outside Our control before we provide You with the Equipment, Software or Services and if this is the case, we will inform You of such increase before starting to provide You with such Equipment, Software or Services. We may in such circumstances before providing You with the Equipment, Software or Services in question, offer You an Alternative and the provisions of Term 9.7 will apply to the provision of such Alternative.
- 18.2 If We agree to deliver any Equipment and/or Software to Your premises then We reserve the right to charge for the carriage/ transport charges as agreed with Us in writing. No delivery will be made until such agreement is reached.
- 18.3 We reserve the right to charge for the packaging and packing of Equipment and/or Software (at the rates agreed in writing with Us) if: (1) the packaging is of a type or extent not normally provided by Us or the manufacturer for such Equipment and/or Software. and (2) either it becomes necessary for Your order or You specifically request it. No delivery will be made until such agreement is reached.
- 18.4 We reserve the right to alter pricing at any time in line with any supplier price increase and such alteration will not for the avoidance of doubt give rise to the right to cancel the Contract or to be provided with an Alternative.
- 18.5 We reserve the right to charge for any special tests and/or inspections requested by You prior to acquiring any Equipment or Software from Us and agreed by Us expressly in writing, at the rate agreed with Us in writing.
- 18.6 All charges and prices are stated exclusive of any value added tax. You agree to pay VAT at the applicable rate and in the applicable manner 18.6 from time to time required by law.
- 18.7 If We invoice You for less than what We are entitled to by mistake then Your receipt and/or payment of such invoice will not release You from the remainder of the amount that should have been invoiced (unless otherwise expressly agreed by Us in writing).
- 18.8 Subject to Term 18.7, any dispute in respect of an amount invoiced must be notified to Us in writing and in good faith within 7 days of the date of the invoice or it will be deemed permanently agreed and accepted by You.
- 18.9 All fees, charges or surcharges referred to in the Terms will be stated in: (1) the Quotation: (2) the Terms: or (3) Our website.

19 Payment period and method:

- 19.1 You will pay in full all amounts stated in an invoice within 14 days of the date of that invoice. However, if You do not have a credit account with Us (or cease to have that credit account for any reason) then We will require You to pay such invoiced amounts with no credit period by proforma invoice
- 19.2 Payments must be made by direct debit. Any other payment method can only be made with Our express prior written approval, and may attract a surcharge.
- 19.3 In any event. We may set monthly credit limits for call charges where You pay in arrears. We may stop You using some or all of the Services or suspend Services if You go over the credit limit.
- 19.4 Receipt of part payment from You will not release You from the remainder of the amount due until and unless We expressly agree to the release in writing.
- 19.5 If on any one or more occasions We accept payment(s) from a third party of any one or more amounts due from You, then that will not result in Us having amended any of Your rights and/or obligations.
- 19.6 If You are unable or unwilling to pay any amount under a Contract in full on the due date then (without prejudice to any of Our other rights or remedies) the following applies:
 - 19.6.1 We may charge interest on such sum from the due date for payment until payment is received in full (whether before or after any judgment) at the monthly rate of 0.65% or, if higher, at 2% above the annual base rate of the Bank of England for the time being (in each case to accrue daily and compounded quarterly): and/or
 - 19.6.2 We may require You to pay (on a full indemnity basis) £1 for each £1 incurred by Us in recovering amounts due to Us from You: and/or
 - 19.6.3 We may terminate the Contract, suspend Services or amend credit terms as We deem appropriate at Our sole discretion: and/or
 - 19.6.4 We may ask for a deposit for security for future charges to such extend as We deem appropriate at Our sole discretion: and/or
 - 19.6.5 We may increase any of Our future charges (and/or withdraw any discount or incentive) by an amount deemed reasonable and appropriate by Us to reflect any credit risk or for any other purpose: and/or
 - 19.6.6 We may suspend or discontinue any or all performance of that Contract and/or any other Contract(s) permanently or temporarily until payment has been made in full.

20 Intellectual Property Rights:

- 20.1 You will not re-sell, develop or commercially exploit in any way the Equipment and/or Software and/or Services (or any intellectual property rights in or concerning the Equipment and/or Software and/or Services) without Our express prior written consent. You will also not infringe any registered or unregistered intellectual property rights of "BTUIB-UE, its suppliers, its sub-contractors or of any other person.
- 20.2 If Software is supplied to You to use in conjunction with any Equipment and/or Service, we grant to You, to the extent that we are lawfully and properly able to do so, a non-exclusive and non-transferable licence for the use of such Software for the duration of the Contract to which it relates. Except as permitted by law. You are not permitted to copy, de-compile or modify, adapt or improve or reverse engineer the Software, nor copy or adapt the manuals of documentation supplied with such Software. Any charge for such Software licence will be stated in the Quotation.
- 20.3 If requested by Us, you will sign any agreement containing reasonable terms which are reasonably required by the owner of the copyright in any Software to protect the owner's interest in that Software. You will not pay for such an agreement unless it is as a consequence of Your breach of Terms 20.1 and/or 20.2 or any other statutory, common law or equitable right concerning intellectual property rights, passing off or confidentiality.

21 Your Details and Call Monitoring:

- 21.1 For the purposes of fraud prevention, debt collection, credit management and emergency services provision, You agree that we may disclose information about You and Your account with Us to debt collection agencies, credit reference agencies, financial institutions, emergency service organizations and other companies. We may also pass Your details to third parties in the event that We need to raise finance or sell Our business.
- 21.2 Unless You indicate otherwise on the Quotation or otherwise in writing, We may:
 - 21.2.1 use Your details to send You information about other products or services that We may from time to time offer and think You may be interested in: and/or
 - 21.2.2 from time to time monitor and/or record calls between Our respective officers, employees, workers, agents and representatives for training and customer care purposes (to include, without limitation, complaint handling) and to record the formation of a Contract or variation to a Contract.
- 21.3 The processing of personal data is subject to data protection legislation. Please refer to our privacy policy for more information about how we hold personal data and Your rights in relation to such holding of personal data.

22 Liability:

- 22.1 We agree that We will be liable for any fraud committed by Us and for personal injury caused by Our negligence (and for any other matter to the extent that liability for that matter cannot be excluded and/or limited under the law).
- 22.2 Subject to Term 22.1, You will fully indemnify and keep indemnified Us and Our sub-contractors and suppliers and the Network Operator (and their respective officers, employees, workers, agents and representatives) for any Detriment suffered, sustained or incurred directly or indirectly due to Your non-compliance with any part of any of Your obligations under and/or in any way relating to any Contract(s) or these Terms (or any other of Your statutory, contractual, common law equitable or other obligations) to include costs incurred in enforcement of Your duties and/or obligations without limitation.
- 22.3 Subject to Term 22.1, We will not be liable for the following whether under statute, contract, common law, equity or otherwise (including, without limitation, for breach of contract, negligence, breach of statutory duty, misrepresentation or otherwise):
 - 22.3.1 any Detriments suffered, sustained or incurred by You arising directly or indirectly from Your acts or omissions, to include: (1) any breach of any Contract: and/or (2) any breach or infringement of any statutory, contractual, common law, equitable or other duty and/or obligation owed by You to any person: and/or (3) any negligence by You or on Your behalf: and/or (4) any other improper, illegal or unauthorised use or handling by You or on Your behalf or by any third party whether authorised by You or not: and/or
 - 22.3.2 to the extent that You have ordered products or services from other companies or persons using Equipment supplied to You by or on Our behalf: and/or
 - 22.3.3 where the Equipment and/or Software and/or Services allows access to the internet or world wide web. We will not be liable to You for the content of any website of a third party or other material that You access via the Equipment and/or Software and/or Services: and/or
 - 22.3.4 to the extent that You have not paid for any defective, faulty or damaged Equipment and/or Software (and/or unsatisfactory Services): and/ or
 - 22.3.5 to the extent that You have not complied with Term 13 16 or 17: and/or

- 22.3.6 any Detriments suffered, sustained or incurred by You as a result of any one or more Force Majeure Events: and/or
- 22.3.7 any of the following losses and damages to the fullest extent permitted by law however they arise and whether or not foreseeable, reasonably contemplated or actually contemplated: (1) loss of profit, loss or depletion of goodwill, loss of business, loss of business opportunity, loss of anticipated savings, loss of use, loss or corruption of data or information, pure economic loss, special loss or damage - in each case of a direct or indirect nature: and/or (2) without prejudice to Term 21.2.2 (1) any indirect or consequential loss or damage whatsoever: and/or
- 22.3.8 to the extent that supplied Equipment falls into disrepair due to fair wear and tear: and/or
- 22.3.9 to the extent that You have not taken all reasonable steps to mitigate Your Detriments (to include the recovery of any monies from any third party such as an insurer): and/or
- 22.3.10 to the extent that the aggregate of all claims arising against Us in connection with Equipment and/or Software and/or Services for a Contract: (1) exceed £100,000 in respect of any one incident or event (or a series of related incidents or events): or (2) exceeds £500,000 for any 12-month period.
- 22.4 Subject to Term 22.1: (1) apart from any other insurance that is prudent in Your circumstances and for Your business. You will effect and maintain adequate insurance to cover risks and liabilities for which We are not liable under any Contract: (2) You must in good faith promptly and diligently pursue any claim under such insurance (and Our liability will be reduced by £1 for each £1 You recover under such insurance): (3) if We make a payment to You before You recover any amount under such insurance then You will fully co-operate with Us to make such payment to Us as is necessary which reimburses Us for any amount recovered by You twice: that is from Us as well as the third party, and (4) in any event, You will keep Us fully and accurately informed of any claim You bring under such insurance.

23 Termination and Automatic Renewal:

- 23.1 The Contract will automatically renew at the end of the Minimum Contract Period or Extended Contract Period as the case may be, unless You or We provide written notice of termination at least 90 days before the end of the Contract Period or the Contract has otherwise been terminated in accordance with this Term 23.
- 23.2 You may terminate a Contract if We materially breach the material terms of that Contract and such breach is not settled within 30 days of You notifying Us in writing of the breach and the amount of Your expected Detriments (with evidence).
- 23.3 We may terminate a Contract immediately upon giving notice (or on a date specified in that notice) if:
 - 23.3.1 You are in breach of that Contract and do not remedy that breach within 30 days of being notified in writing to do so: and/or
 - 23.3.2 in Our reasonable opinion You do or allow something to be done that in Our reasonable opinion will or may have the effect of jeopardising the operation or provision of any Network or Services to any person: and/or
 - 23.3.3 in Our reasonable opinion You will or may cause Us to be in breach of any obligations owed to any supplier, the Network Operator or any other third party in any way connected with any Contract (and/or the Equipment, Software or Services supplied or to be supplied thereunder): and/or
 - 23.3.4 the Network Operator or any third party terminates its contract with You due to You moving premises or breaching the Network Operator or third party's terms and conditions:
 - 23.3.5 You give Us any false or misleading information which, if We had known it was false or misleading at the time would have caused Us to reasonably not to enter into any Contract with You (and/ or not to supply to You any Equipment and/or Services and/or credit): and/or
 - 23.3.6 You are unable to pay Your debts as they fall due, are deemed unable to pay Your debts under the Insolvency Act 1986 (section 123), or become the subject of any insolvency, bankruptcy, receivership, administration or similar action or proceedings for any reason: and/or
 - 23.3.7 You cease (or threaten to cease) to carry on all or a substantial part of Your business: and/or
 - 23.3.8 You start negotiating with creditors to re-schedule Your debt, or make a proposal for or enter into any compromise or arrangement with Your creditors: and/or
 - 23.3.9 You become the subject of winding up, dissolution or similar action or proceeding for any reason: and/or
 - 23.3.10 the ordered Equipment and/or Software and/or Services cannot be provided (or continue to be provided) due to any one or more Force Majeure Event.
- 23.4 Either party may terminate in such circumstances as are permitted under other Terms.
- 23.5 The following applies on termination of a Contract:

- 23.5.1 Such termination will not exclude or limit Our or Your respective accrued rights and remedies. In particular, without limitation. Terms 1 to 8 (inclusive) 16 17.5 17.6 17.7 17.8 17.11 17.12 17.16 17.17 17.18 19.6 (inclusive) will continue to apply.
- 23.5.2 In any event. You will without delay pay all amounts payable under or in relation to that Contract for the period up to and including termination,
- 23.5.3 whether or not then invoiced and whether or not then due and owing. You will also return without delay, all of Our property of any kind (and/or the property of any kind of Our suppliers and/or sub-contractors).
- 23.5.4 On termination for any reason, You will ensure that You have a provider of equipment and/or software and/or services to replace those provided by Us under the applicable Contract terminated. If termination occurred due to a Force Majeure Event affecting Us (or Our breach not being remedied as required under these Terms), then you will be entitled to either: (1) a refund of the amount paid in advance relating to the period after termination (or, if applicable, a waiver of the amount due after termination), or (2) use of the Services beyond termination to the extent paid for in advance.
- 23.5.5 If termination occurred due to any other reason: (1) on the expiry of the Contract Period, then no further contractual payments are due and payable by You in relation to the period after such expiry: or (2) before the expiry of the Contract Period, then You must pay to Us in full (a) what would otherwise be due or payable to Us from the date of the termination to the end of the relevant Contract Period and (b) any and all charges fees, costs, penalties or damages of any of Our suppliers and/or subcontractors that We become liable to pay as a direct or indirect result of such termination.

SECTION C: SPECIFIC SERVICES

24 Installation of Equipment and/or Software:

- 24.1 Where We are to install Equipment and/or Software under the applicable Contract, the following applies.
- 24.2 You will ensure that You obtain, keep and pay for all necessary licences, consents and approvals required for the installation and use of the Equipment.
- 24.3 We will: (1) subject to Term 12.1, install the Equipment and/or Software on the date stated in the Quotation: and (2) install the Equipment and/or Software at the installation location stated in the Quotation.
- 24.4 You will keep such installed Equipment and/or Software at the location installed until and unless We expressly agree otherwise in writing.

25 Maintenance or Repair of Equipment and/or Software

- 25.1 Where We are responsible for maintaining and/or repairing the Equipment and/or Software under the applicable Contract, the following applies.
- 25.2 You maintain the responsibility for security, safety and unauthorised usage as set out in Term 16.
- 25.3 The provision of maintenance and/or repair services is subject to survey and/ or on acceptance test. This will involve one or more of Our approved service engineers or other personnel checking the suitability of providing the specific maintenance and/or repair services at any specific location and/or in respect of any specific Equipment/Software and/or in any specific conditions. A charge for such a survey and/or test will apply if the maintenance and/or repair does not then take place for any reason.
- 25.4 The Equipment and/or Software will be maintained and/or repaired for as long as stated in the Quotation, unless the Contract for that maintenance or repair terminates early under its terms.
- 25.5 The Equipment and/or Software will be maintained and/or repaired by Us or on Our behalf to the extent reasonably necessary for it to be in good working order during the contractual maintenance period.
- 25.6 Maintenance and/or repair of the Equipment and/or Software may be performed only by the service engineers of "BTUIB-UE or its subcontractors or any other person expressly approved by Us in writing.
- 25.7 We are not obliged to supply any maintenance and/or repair services where in Our reasonable opinion these are needed because of: (1) improper or inadequate installation environment use or maintenance: (2) actions or modifications by unauthorised third parties or You: (3) accidental or wilful damage: or (4) a defect or problem arising due to Your breach of any of the Terms or other applicable terms of the applicable Contract: or (5) a Force Majeure Event.

- 25.8 In any event, the maintenance and/or repair services do not include the correction or avoidance of Software defects or errors or the load or reloading of Your applications Software or data or any reconfiguration of the Equipment beyond the reloading of the Software as carried out and supplied upon the original date of installation of the Equipment by or on Our behalf. We reserve the right to charge for any Software upgrades not necessary to correct errors for which We are responsible under a Contract.
- 25.9 No warranty or guarantee is given by Us for consumables and/or supplies. However, the benefit of any manufacturer's warranty or guarantee will be passed on to You to the extent We are legally able to do so.
- 25.10 The following services are outside the terms of any maintenance or repair services and We reserve the right to charge as per Our current price structure:
- 25.10.1 Remote Support Services.**
- 25.10.2 Service requested on public bank holidays or otherwise outside normal working hours of 9am to 5pm Monday to Friday
- 25.10.3 Use of Equipment, consumables or supplies which have not been approved by Us expressly in writing.
- 25.10.4 Service occasioned by neglect or misuse of the Equipment by You or Your officers, employees, workers, agents, representatives or anyone allowed by You to use the same.
- 25.10.5 Removal or transfer of the Equipment from the location at which the Equipment is installed within the contractual maintenance period.
- 25.10.6 Defects or power surges in telecommunication lines or equipment to which the Equipment may be connected.
- 25.10.7 Service occasioned by the use of incompatible or corrupted software and/or data which may be connected to or incorporated within the Equipment and/or any other information technology hardware or system either directly or indirectly.
- 25.10.8 For false alarms, 'no faults found' and abortive call outs (and, for the avoidance of doubt. You will take all necessary steps to minimise false alarms and unnecessary service calls).
- 25.10.9 Electrical work external to the Equipment, such as the power supply or the maintenance of any accessories, attachments, machines or other devices not listed in the Quotation.
- 25.10.10 The repair or replacement of any aerials, mast antennae and their associated cable/connector assembling.
- 25.10.11 The furnishing of supplies or accessories, painting or refinishing of purchase Equipment or furnishing Equipment therefore making specification changes or performing services connected with the relocation of the Equipment or adding or removing any accessories, attachments or other devices.
- 25.10.12 Any work to be carried out due to You not complying with any applicable terms of the relevant Contract.
- 25.10.13 The replacement of magnetic tapes, discs or other software devices or media and other accessories, except where they are an integral part of the Equipment and required under a Contract.
- 25.10.14 The repair of wiring which is external to equipment cabinets and enclosures unless specifically included in a Contract. Maintenance or
- 25.10.15 replacement of batteries or individual battery cells.
- 25.10.16 Investigation of or implementation of cores for radio interference.
- 25.10.17 Failure of any Network service and/or mains electricity failure.
- 25.10.18 Damage from any cause external to equipment cabinets.
- 25.10.19 Failure due to software viruses, trojans. worms, adware, malware or similar harmful causes.
- 25.10.20 Failure of any element unique to Your Equipment and/or Software and/or business practices.
- 25.10.21 Any faults caused by Your user errors.
- 25.11 We reserve the right to charge for operator training other than initial installation training.
- 25.12 After the elapse of the contractual maintenance period the following will apply:
- 25.12.1 Any service(s) to the Equipment and/ or Software deemed necessary by Us and described as a major overhaul will be charged at Our then current price structure.
- 25.12.2 Any spare parts fitted to the Equipment will be charged at Our then current price structure.
- 25.13 You will ensure that You (and those using the Equipment and/or Software on Your behalf or with Your consent) will:
- 25.13.1 take all reasonable security measures in respect of the Equipment and Software:
- 25.13.2 keep the Equipment clean externally and take reasonable measures to ensure the Equipment stays clean internally (but nothing in the Term permits You to have the Equipment opened and/or cleaned without Our express prior written consent):
- 25.13.3 ensure that the Equipment and/or Software is not used whilst in a condition liable to cause damage:

- 25.13.4 ensure that reasonable and proper care is taken of the Equipment and/or Software:
- 25.13.5 not to remove the Equipment and/or Software from the location at which it was installed by or on Our behalf without the Our express prior written permission:
- 25.13.6 not to use the Equipment and/or Software for any purpose beyond its capacity (as per manufacturers or creator's recommendations) in a manner likely to result in excessive wear:
- 25.13.7 be responsible for ensuring that: (1) the Equipment and/or Software is suitable for Your business and compatible for connection to existing or future information technology hardware or systems: and (2) You have all relevant consents and permissions to enable such connections and that such connections will not jeopardise any manufacturers or creator's warranties from which You benefit and (3) You do not breach any agreement to which You are subject.
- 25.13.8 Immediately inform Us when a routine service is due (and to report to Us any malfunction of the Equipment and/or Software and record full details of the malfunction including, without limitation, any warning lights or indicators showing at the time of malfunction):
- 25.13.9 make no testing of, or adjustments or alterations to (or connections of other equipment and/or software to) the Equipment and/or Software in each case without Our express prior written permission:
- 25.13.10 allow any service engineers and other authorised representatives of TalkSolution to enter the premises of any location where the Equipment and/or Software was installed by or on Our behalf for the purpose of inspecting, servicing or verifying meter readings during normal working hours of Your business:
- 25.13.11 notify Us of any fault to the Equipment and/or Software being discovered within 8 consecutive normal working hours. 9am to 5pm Monday to Friday (with the exception of weekends and public bank holidays): and
- 25.13.12 ensure the security and provision of back-up copies of Your data and the data of any third party that You process using the Equipment directly or indirectly.
- 25.14 You will be fully responsible for any charges made by any Police, Fire or Government agency or authority, howsoever caused.
- 25.15 We reserve the right to increase any maintenance and/or repair charges and render additional invoices to take account of any increase in the expense to Us of providing any of the maintenance and/or repair services or resulting from any variation in any taxes (other than corporation tax), duties, impositions, costing and obligations.
- 25.16 Where PVC security seals fitted to Equipment are broken. We reserve the right to carry out a full mechanical and electrical check on the Equipment (and reserve the right to charge You for any additional costs of carrying out such checks before new seals are affixed).
- 25.17 We reserve the right to charge for any changes to the specification of the Equipment and/or Software and/or Services.
- 25.18 In respect of response time unless otherwise agreed in writing between Us and You. We will have been deemed to have responded to a reported fault the earliest of the following (with response times defined in conventional working hours):
 - 25.18.1 the time Our approved personnel log on by remote access to investigate the problem:
 - 25.18.2 the time of arrival by Our approved personnel at the installation site:
 - 25.18.3 the time at which We have given advice to You as to the action to be taken by You or to a third party for the clearance of the fault or
 - 25.18.4 in the case of a reported fault which does not materially affect the operation or use of the Equipment and/or Software, the time when We have given telephone advice as We think reasonable for action to be taken by You pending attendance by Us at the installation.
- 25.19 We have defined 3 classifications for reported faults or assistance. In order to classify a request, you should indicate the impact the issue has on the equipment and its operation. You can request a specific classification in accordance with definitions listed below, however, we reserve the right to reclassify the problem if We deem it appropriate. Where the parties disagree on the classification of a particular problem. We undertake to take reasonable (but financially and commercially prudent) steps to discuss the problem with You with a view to reaching a mutually acceptable classification. The classifications are as follows:
 - 25.19.1 Major Product Failure Affecting 50% or more of channels, line or extensions. Attendant Console or common control processor. Affecting 50% or more of data peripherals. Affecting 50% or more of the special networking capabilities supported.
 - 25.19.2 Minor Product Failure: These are defined as non-service affecting issues, not included in the definition of a Major Product Failure.

26 Rental of Equipment:

- 26.1 We will at all times own all Equipment rented by You from Us.
- 26.2 You will not let, sell, charge, assign, sub-license or allow a third party to use the such Equipment nor remove any labels, and will not prejudice our rights in the such Equipment in anyway.
- 26.3 We may replace such Equipment from time to time either with Your prior consent provided that: (1) the replacement rental
- 26.4 Equipment is of a specification that is at least equal to the rented Equipment originally supplied: and (2) such change does not materially disrupt the provision of the Services.
- 26.5 It is Your responsibility to look after the rented Equipment that is in Your possession or custody and You agree to pay for the rented Equipment to be replaced or repaired if it is lost, stolen or damaged.
- 26.6 You will notify Us promptly of any faults which occur, any repairs which become necessary, and of any loss, theft or damage to the rented Equipment.
- 26.7 You will only use the rented Equipment in conjunction with the relevant Services and will comply with Our reasonable instructions in relation to its use.
- 26.8 You will maintain adequate cover in place to ensure the rental Equipment while it remains in Your possession and custody. You will also be responsible for obtaining and, where appropriate, paying for all necessary licences, consents and approvals required for the installation and use of the rental Equipment.
- 26.9 You will not (and You will ensure that no-one else will) repair, alter, modify or maintain, or make any additions or attachments to, or otherwise alter, the rented Equipment without Our express prior written consent. We will not be liable for any costs or charges incurred, faults caused by, or repairs required as a result of, installation or programming of rented Equipment that is carried out by any other person (other than our authorised persons).
- 26.10 On expiry or termination of the rental arrangements or the relevant Service, all rented Equipment must be returned to Us as required by these Terms. If You fail to return or make available for collection the rented Equipment in a reasonable condition or at all We may, at our option, invoice You for a sum equal to the original cost of the rented Equipment less any depreciation together with any costs reasonably incurred by Us.
- 26.11 In the event that You return the rented Equipment to Us and it is not received by Us, then in the absence of reasonable evidence that the rented Equipment has been delivered to Us You accept that You will remain liable for that Equipment.

27 Line rentals:

- 27.1 When We provide Your line rentals. We will route Your calls through Our selected Network. No other service provider may route these calls or attempt to. We reserve the right to bar these calls if another service provider attempts to do so.
- 27.2 Any use of fixed lines is subject to our Fair Use Policy (shown at the end of these Terms and Conditions). Term 16 and to the Supplier's own terms and conditions and policies. It is Your responsibility to access and read these terms and conditions and policies.

28 Mobile Devices:

- 28.1 Each Mobile Device ordered by You is subject to its own agreement.
- 28.2 If You upgrade Your Mobile Device to a new model, then the new model will be subject to a new Minimum Contract Period from the date the new model was delivered.
- 28.3 Any SIM Cards supplied will remain the property of the Network Operator at all times. "BTUIB-UE controls the SIM Card and Mobile Device number although they belong to the Network Operator.
- 28.4 We reserve the right to charge You our normal fees for Remote Support Services and an administration fee for porting or migrating to other service providers and disconnection from the Network.
- 28.5 We may change or reallocate Your Mobile Device number where required to do so by any UK statutory or regulatory authority.
- 28.6 You have to pay for all charges for Your Mobile Device and for using the Services as set out or referred to on the Quotation or in the Tariff You have chosen on the Quotation (including, without limitation, the Call Charges, Connection Charges, Monthly Line Rentals and Mobile Devices prices. You acknowledge that You are responsible for paying all Call Charges made using Your Mobile Device and/or SIM Card whether or not such calls have been made by You or on Your behalf (and whether or not made with Your consent and/or by persons authorised by You). Any use of Mobile Devices is subject to Term 16 .

- 28.7 You agree that the line rental, tariff and any incentive given (cash back, equipment or a combination of both) has been provided on the basis that the average spend per live number on the account or total spend with "BTUIB-UE as a percentage of Your total call spend is no less than the monthly amount or annual percentage, if any, specified in the Quotation per month. Should the average spend per live number drop below that monthly amount or percentage of annual call spend drop below the specified annual percentage, We will be entitled to charge, claw-back or adjust any line rental, tariff and incentive given in respect of each connection.
- 28.8 On expiration of the Minimum Contract Period, we reserve the right to remove any incentives or discounts that applied during the Minimum Contract Period.
- 28.9 Your Mobile Device will only work in the areas covered by the Network You have chosen. We cannot guarantee coverage in any area as We have no control over this.
- 28.10 You must not use Your SIM Card and/or Mobile Device (or allow them to be used) for any illegal, fraudulent, or immoral purpose or to make offensive or nuisance calls. We may report any incidents to the police or any other relevant official organization.
- 28.11 You must not use Your SIM Card or Mobile Device with any equipment which has not been approved for use on the Network. If You are not sure, You should ask the person selling or supplying the equipment.
- 28.12 You will keep Your SIM Card and Mobile Device supplied by Us safe and secure. You must inform Us immediately if a SIM Card supplied to You by Us is lost, stolen or damaged. You will remain liable for all Charges incurred until You do so and We cancel the SIM Card. We will send You a replacement SIM Card as soon as reasonably practicable, but We reserve the right to charge You for doing so. If You need Us to replace a Mobile Device because it has been lost, stolen or damaged, we reserve the right to charge You the full price of any replacement.

29 Mobile Services:

- 29.1 You agree that each Mobile Device is capable of receiving SMS text messages which may originate from a variety of sources and where We are acting as a Service provider, We have no knowledge of, involvement with, or liability for the specific content of any SMS text messages sent to the Your Mobile Device, which originate from such sources.
- 29.2 You agree to follow all reasonable instructions We provide You with regarding Your use of any Service (for example, fair usage policy and security), the SIM Card and the Network and provide Us with any information we reasonably ask for.
- 29.3 You agree not to use SMS or the SMS land to mobile text messaging Service for the purpose of marketing or advertising anything to users for wireless services without the consent of those users.
- 29.4 You may establish, install or use a GSM Gateway for Your own private purposes only, provided that it adheres at all times to the Network Operators policies in respect of the use of private GSM Gateways and does not compromise security.
- 29.5 You agree to use the SMS Services through the Airtime service. Any other leased, or indirect access to a device which is not connected to the Airtime service may incur additional inter-connect charges in respect of transfer of messages to another mobile network operator service and "BTUIB-UE Reserves the right to invoice You, and You agree to pay such charges.
- 29.6 Subject to Term 29.7, We may at Our discretion, whenever reasonable from time to time (with or without notice to You) suspend the Services and/or provision of any associated customer services, in any of the following circumstances (without prejudice to any of its other rights and remedies), provided that it will use reasonable but financially and commercially prudent endeavours to restore the Services as soon as reasonably practicable:
- 29.6.1 during technical failure, modification or maintenance of the Network and/or other telecommunication systems by which the Services are provided: and/or
- 29.6.2 if You fail to comply with the terms of this agreement after being given written notice of its failure (including but not limited to failure to pay any sums due hereunder) until such failure to comply is remedied: and/or
- 29.6.3 if You allow anything to be done which in Our reasonable opinion may have the effect of jeopardising the security or operation of the Services or any of Our information technology or telecommunication systems: and/or

- 29.6.4 if in Our reasonable opinion, the Services are being used in a manner prejudicial to the interest of You and/or "BTUIB-UE: and/ or
- 29.6.5 if We have reasonable cause to suspect or if You have notified Us of fraudulent, unauthorised or illegal use of any payment method, the SIM Card or the Mobile Device itself, or You tell Us about the loss or theft of Your SIM Card or Mobile Device: and/or
- 29.6.6 if We are entitled to suspend any Service under any other Term: and/or
- 29.6.7 due to an emergency or upon instruction by emergency services or any government or appropriate authority (including the Network Operator) or for Your own security.
- 29.7 You will remain liable for all charges levied in accordance with the applicable Contract for the duration of any suspension under Terms 29.6.1 to 29.6.6 (inclusive) above. For the avoidance of doubt, if We agree at Our sole discretion to re-instate the Service following a suspension or disconnection, You may be liable for a reasonable re-connection fee if the suspension or disconnection is due to Your default.

30 Network Operators:

- 30.1 If You breach the terms and conditions or policies of the Network Operator providing You Services then it is highly likely that they may make additional charges and/or may terminate the Services in question and require You to continue to pay for the Contract Period. It is Your responsibility to check the Network Operators terms and conditions and policies. If You cannot access these documents, please let Us know and we will provide You with a copy.
- 30.2 We will not be liable for any restrictions imposed on You by the Network Operator whether under their terms and conditions or policies or otherwise.
- 30.3 We will not be liable for any additional charges or costs imposed under Term 30.1 or for any costs associated with the termination of the Services under Term 30.1.
- 30.4 We are unable to provide third party software or any administration user names or passwords to You without the prior written consent of the Network Operator.
- 30.5 If You move premises during a Contract Period then the Network Operator may not agree to transferring some or all of the Services to the new premises. If this is the case then the Network Operator may treat the move of premises as a termination event which will result in "BTUIB-UE being in breach of its obligations to the Network Operator and therefore terminating the Contract under Term 23.3.4 23.3.3 For the avoidance of doubt, in such circumstances Term 23.5 shall apply.

31 Call Recording:

- 31.1 Where You take a service, which includes call recording of inbound and/or outbound call, You accept that it is Your responsibility to obtain legal advice to ensure You are fully compliant with all legal requirements when using any call recording product and agree that We will have no liability for any Detriments 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 requirements.

32 Outbound telephony:

- 32.1 All calls are to be routed over Our chosen Network.
- 32.2 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 additional charges applicable at the time of application.

- 33 **Inbound telephony:** If an inbound number is withdrawn by Ofcom by any of our suppliers due to any Force Majeure Event or otherwise by Us for any reasonable reason, we reserve the right to recover the number(s) from You immediately. We will use our reasonable but financially and commercially prudent endeavours to supply You with another number which is acceptable to You.

- 34 **Insurance:** We are unable to carry out any regulated activities regarding insurance under the Financial Services and Markets Act 2000 until We have appropriate statutory authority to do so.

SECTION D: GENERAL POINTS

- 35 **Governing law:** English law will govern each Contract and these Terms in all respects.
- 36 **Jurisdiction:** English Courts will have exclusive jurisdiction unless We expressly state otherwise in writing (acting reasonably) for enforcement reasons.
- 37 **Variations:**
- 37.1 We can change the terms of any Contract by giving You notice if the law or any regulations affecting the Services change or VAT or any other tax is increased.
- 37.2 We can change our charges for the Services on 30 days written notice. However, if We increase Our charges or introduce new charges because of something other than a change in the law or an increase in taxes. You can end the applicable Contract on 30 days written notice. You will then only have to pay invoices for Services that You incur up until the end of the notice period. During the notice period the old charges will still apply.
- 37.3 We will notify You of any changes by mail, email or text message to Your Mobile Device.
- 37.4 Subject to Terms 37.1 and 37.2, a variation to these Terms or any other part of any Contract will be effective and enforceable provided We have given you written notice of such variation.
- 37.5 If We make a variation to these Terms that causes You material detriment, you shall be entitled to terminate the Contract by giving Us written notice within 30 days after the date we give You written notice of the varied Terms.
- 38 **Notices:** Each party will keep the other party informed of its contact details. All notices given under or in respect of a Contract or these Terms will be given in writing and in the English language. They will be sent to the last known postal or e-mail address, or fax number, of the other party. They will be deemed served: 72 hours after dispatch (if posted), 48 hours after confirmed dispatch (if e-mailed or faxed) or immediately (if delivered by hand). E-mails and faxes require a delivery report as evidence of service.
- 39 **Set-off :**"TUIB-UE may deduct and set-off any amount owed by it to You from any amount owed by You to it. You will not withhold payment of any sum payable by You to Us by reason of any claim, set-off or otherwise.
- 40 **Third party rights:** Each tract is made for the benefit of the parties to it. It is not intended to benefit, or be enforceable by, anyone else under the Contract (Rights of Third Parties) Act 1999 or otherwise (except that Our suppliers, Our sub-contractors and the respective officers, directors, employees, workers, agents or representatives of "BTUIB, Our Suppliers or Our sub- contractors may enforce any benefit of an indemnity or other right granted by these Terms or any Contract to them). The prior consent of any such third party with enforcement rights is not required to vary any Contract or these Terms.
- 41 **Waiver:** Each party will only be deemed to waive any of its rights or remedies if it does so in writing (irrespective of any delay or indulgence in enforcing rights). No other waiver will be valid. Any waiver will only apply to the specific right or remedy being waived for the specific event/circumstances only and will not restrict or prohibit or otherwise affect the further exercise of such rights or remedy.
- 42 **Rights:** Except as expressly provided in these Terms, the rights and remedies provided under any Contract are in addition to (and not exclusive of) any rights or remedies provided by law.
- 43 **Enforceability:** The Terms apply to the fullest extent permitted by the law. If any part of the Terms is held/determined to be unenforceable by any court/ body of competent jurisdiction, that part will be deemed modified (or, as a last resort, deleted) to the minimum extent necessary for that part to become enforceable. The remainder of the Terms will continue to apply in any event.
- 44 **Assignment:** Each Contract is personal to You and You cannot assign or transfer the benefit of any Contract to any other person without Our express prior written consent. We can assign or transfer the Contract to someone else if We give You written notice before or after such assignment.
- 45 **Type of relationship:** Nothing under or relating to any Contract is intended to (or will be deemed to) establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party - except to the extent expressly stated in this Terms.
- 46 **Interpretation:**

- 46.1 The expressions including, include, in particular or any similar expression will not limit the sense of the words appearing before them.
- 46.2 The headings and sub-headings are not intended (and will not be deemed) to affect interpretation of the Terms or any other part of any Contract.
- 46.3 A 'person' includes a natural person, body corporate or unincorporated body (whether or not having separate legal personality).
- 46.4 Any obligation on a person not to do anything includes an obligation not to agree, allow, permit or acquiesce in that thing being done by another person.
- 46.5 A reference to any statute or statutory provision includes all subordinate legislation made under it and is a reference to it (including the subordinate legislation) in force from time to time.

47 Transfer and Cancellation

- 47.1 47.1 We reserve the right to charge an administration fee of £100 minimum or £100 per line/channel (to include SIP) or per user (including licenses) whichever amounts to the greater sum (£) in the case of a transfer.
- 47.2 47.2 Where You have agreed to the rental of a SIM Card under these Terms and cancel the rental within two (2) years, we reserve the right to charge an administration fee of £60 per SIM Card.

FAIR USE POLICY

Talksolution Ltd (company number 07629824), registered at 35 Ruddles Way , Windsor, SL4 5SF provides business grade services to the UK market place across two sales channels - direct and indirect. Talksolution Ltd is highly experienced in the sales of pbxs, hosted pbxs, next generation IP based solutions, converged networks, mobile & IT Services.

This Fair Use Policy applies where You have an unlimited minutes package and/or an unlimited broadband downloads package.

What this policy covers

Fixed line and VOIP/IP usage

TalkSolution tariffs are designed to be suitable for customers with a typical calling pattern for UK businesses. This is set at 5000 minutes per user per month. If Your calling patterns differ significantly from this standard calling pattern then You may be in breach of the Fair Use Limits below. In this event Talksolution Ltd reserves the right to amend Your tariff without notice.

Fair Use for fixed lines: and VOIP/IP

All call bundles include only calls to UK landlines with the prefix of 01, 02 or 03 and UK mobile telephones. Calls to international numbers (including the Channel Islands) or beginning with 08 or 09 are not included in our call bundles unless we expressly agree to this.

If your agreed call bundle includes calls to international numbers, certain destinations may be excluded dependent upon the call bundle we agree with you.

Calls to UK mobile telephones shall constitute not more than 50% of the calls (measured by time duration) on any invoice.

Calls to UK mobile telephones include calls to mobile telephones on the Vodafone, 02, EE (T-Mobile and Orange) and 3 networks only. This does not include any calls to Lyca or Lebara mobile telephones or any mobile virtual network operator not based on the UK GSM Cellular networks.

Broadband

You must not use any broadband service purchased from Talksolution Ltd:

In any way which is unlawful:

to send, receive, upload, download or use any information or material which is defamatory, abusive, obscene, discriminatory, illegal or offensive in any way:

to knowingly upload, send or transmit material that contains viruses, Trojan horses, worms, spyware, ad-ware or any other harmful material or codes: or in contravention of any specific instructions Talksolution Ltd gives You regarding the usage of the broadband service.

Talksolution Ltd reserves the right to control or stop Your usage where it sees fit if we believe that You are in breach of this policy or that Your use is adversely affecting our network or any other customers' use of our services. We will not impose restrictions on Your use of our broadband service without prior notice unless we are required to do so by the supplier.

Charges for excess use

TalkSolution may at its discretion impose a reasonable charge in line with its standard non discounted rates for any usage exceeding any quoted fair usage limit, whether or not such usage is authorised.

If You exceed the limits set out in this policy then Talksolution Ltd may:

Impose a charge for any excess use in line with its standard and non-discounted rates and tariffs:

Change Your tariff, bundle or price plan at any time and give You notice of this change: or Suspend Your services.

GLOSSARY

Alternative means an alternative option which meets or exceeds the required specification of Services, Equipment or Software detailed in an Order Form.

Airtime means wireless airtime and network capacity procured from the Network Operator.

Commitment Level means the minimum contracted threshold (80%) of annual call spend committed to Us.

Contract means any legally binding agreement, understanding, arrangement or commitment for the supply of particular Equipment and/or Software and/or Services by Us to You.

Contract Period means the Minimum Contract Period and, if relevant, any Extended Contract Periods.

Detriment means any loss, damage, claim, cost or expense (to include professional costs and expenses and enforcement costs and expenses) whatsoever arising before, during or after any court or tribunal or regulatory proceedings, investigations or prosecutions.

End-User Licensed Software (EUL) means any software whose licence terms are governed by a separate agreement with the licensor of such software, usually under a "click-wrap" or "shrink-wrap" licence agreement.

Equipment means the photocopiers, Mobile Devices or other equipment or products whatsoever supplied by Us under the applicable Contract, with or without any Software (to include any End-User Licensed Software) and documentation supplied under that Contract.

Extended Contract Period: a period of 12 months for which a Contract is renewed or extended and such renewed period is automatic unless notice is given by You in accordance with Term 23.

Force Majeure Event means:

- (a) necessary compliance with the law:
- (b) any act of God (including, without limitation, fire, flood, earthquake, windstorm, adverse weather conditions or other natural disaster or conditions):
- (c) any war, armed conflict, terrorist attack, civil commotion, riot or similar action: (d) any national or international political campaign, sanction, embargo, loss or reduction of diplomatic relations or similar action: (e) loss at sea, fire, explosion, accidental damage, collapsing buildings (or the failure of plant machinery, machinery, computers or vehicles) or similar event: (f) any labour dispute (including strikes, industrial action or lockouts or similar action): (g) any non-performance by any supplier to or sub-contractor of Talksolution Ltd: (h) Talksolution Ltd ceasing to have rights to supply any Equipment and/or Software and/or Service for any reason: (i) the Network ceasing to exist or operate for any reason: (j) any equipment, spare parts, consumables, materials, items or skills becoming obsolete: and (k) any event or circumstance whatsoever beyond Our reasonable control.

GSM Gateways means devices that transfer a fixed line call onto a radio network via a SIM Card and radio channel. thus, gaining a mobile-mobile call rate rather than fixed-mobile.

GPRS Bearer means the general packet radio service provided by the Network Operator that forms part of the Airtime.

Minimum Contract Period in respect of a Service means the minimum length of time You commit to taking any Service under a Contract and more particularly specified in the Order Form or as otherwise expressly agreed in writing by You and Us.

Mobile Device means the mobile equipment or device (with or without a SIM Card being supplied, but incorporating a SIM Card if supplied).

Mobile Service means the provision of Airtime. GPRS Bearer, Mobile Web. SMS. SMS land to mobile text messaging service, location-based services and/or any other wireless services.

Mobile Web means full colour Internet access and email on the Mobile Device.

Network means the mobile device system over which Our services are provided.

Network Operator means the network operator who operates the wireless, broadband, telephony. telecommunications. IPT network or networks (whether or not connecting a SIM Card and/or any Equipment).

Network Operator Services means those Services which are provided by Network Operators.

Proposal means a proposal given by Us to You setting out details of our Services and/or Equipment.

Quotation means the Talksolution Ltd order form to which these Terms are attached (or are incorporated by reference) and which contain details of Your application for the Service and the Mobile Devices.

Remote Support Services means remote support services supplied by Us to You upon request in relation to account administration and related matters.

SIM Card means the subscriber identity module supplied by the Network Operator (and which shall at all times remain the property of the Network Operator), which is allocated to You by Us, and which contains the number designated under the Contract.

SMS means the short message service, which enables text messages to be sent to, and received from Devices.

SMS land to mobile text messaging service means the short message service for text message sent to SIM Cards via a software application in conjunction with a private or virtual private circuit linking the Customer's wireless private or virtual private data network with the wireless services.

Services means all Mobile Services and/ or other services provided under the applicable Contract and specified in the applicable Order Form or otherwise expressly agreed in writing by the parties from time to time or Remote Support Services.

Software means any software (including End-User Licensed Software) supplied to You by Us, a supplier of Ours, the Network Operator or any other supplier under the terms of or in respect of the Contract.

Special Condition means the conditions specified as such in the Order Form.

Tariff means the Talksolution Ltd tariff that sets out the rates which We will charge You for Your calls and other services You have chosen. Please contact Us if You have not received a copy of Our Tariff with the Order Form.

Terms means these terms and conditions as may be varied by Us from time to time.

Transfer means the transfer of Our Services to another Communications Provider.

Talksolution Ltd or We or Us or Our means Talksolution Ltd a company registered in England and Wales.

You and Your means the customer whose company details or personal details are set out on the Quotation.