

Telephone System terms and conditions

1 Interpretation

1.1 **'POA'** means the binding Signal Telecom (Stokesley) Hosted Telephone System Purchase Order Agreement and/or Hosted Telephone System Maintenance Insurance Purchase Order Agreement, and/or any associated contract made between the Company and the Customer for the goods and/or services specified on the POA, which shall be subject to these terms and conditions.

1.2 **'Company'** means Talk Business Solutions Ltd., whose registered office is at Exchange Building, 66 Church Street, Hartlepool, Cleveland TS24 7DN. Signal Telecom (Stokesley) is operated under license by Talk Business Solutions Ltd.

1.3 **'Contract'** means any supplementary contract to a POA and is subject to these terms and conditions.

1.4 **'Customer'** means the person so named in the POA and anybody reasonably appearing to the Company to be acting with that person's authority or permission.

1.5 **'Equipment'** means products provided under the POA or supported as part of a maintenance POA.

1.6 **'Line provision'** means the installation of a network circuit (or circuits) normally re-sold on behalf of a third party.

1.7 **'Line rental'** means rental of a network circuit (or circuits) normally re-sold on behalf of a third party.

1.8 **'Maintenance service'** means the regulated support (hardware and software) of all equipment detailed on the POA and as described further below.

1.9 **'Minimum period'** means the minimum period set out on the POA.

1.10 **'Connection'** means an electronic communications channel (or channels) organised for the transmission of voice and/or data between two or more parties (Examples include but are not restricted to analogue, ISDN2, ISDN30, ADSL, SDSL, Kilostream (LES) circuits).

1.11 **'Operational service date'** means the date a service is first made available to the Customer.

1.12 **'Service'** means any service as stated on the POA or detailed below.

1.13 **'Site'** means the place at which the Company agrees to provide the service or equipment.

2 General

2.1 Infrastructure

The Company will use its best endeavours to advise the Customer on the condition of existing infrastructure (cables, equipment, broadband service etc.). The signing of the POA by the Company does not guarantee 100% efficiency of the infrastructure and the Company accepts no liability for system faults caused by defective infrastructure not installed by the Company.

2.2 Assignment

2.2.1 Assignment of a POA by either party may not be unreasonably withheld.

2.3 Changes.

2.3.1 If the Customer asks the Company to make any change to any aspect of the service delivered, the Company may ask the Customer to confirm the request in writing. The Company will advise the Customer if the change will result in any amendment to the charges payable by the Customer.

2.4 Confidentiality.

2.4.1 The parties will keep in confidence any information (whether written or oral) of a confidential nature obtained under the POA and will not disclose that information to any person (other than their employees or professional advisors) without written consent of the other party.

2.5 Entire agreement

2.5.1 Unless otherwise explicitly stated by the Company the POA and any associated contract/s shall constitute the entire agreement between the parties in relation to their subject matter.

2.6 Law

2.6.1 The service or equipment must not be used in any way that is unlawful.

2.6.2 These terms and conditions shall be governed by and constructed in accordance with English law.

2.7 Liability

2.7.1 The Company accepts no liability for failure by outside suppliers to meet their responsibilities.

2.7.2 The Company shall not be liable for any financial consequential or indirect loss suffered by the Customer or any third-party whether such loss arises from a breach of a duty in the POA or contract or in any other way including without limitation to the generality of this exclusion, loss of profits, economic loss, loss of goodwill, loss of contracts, loss of data, damage to the property of the Customer or anyone else (other

than damage caused by negligence of the Company or any of its employees, agents or subcontractors) and personal injury to the Customer or anyone else (except so far as such injury is attributable to the Company's negligence).

2.8 Matters beyond either party's reasonable control.

2.8.1 If either party is unable to perform any obligation under the POA because of a lightning, flood, exceptionally severe weather, fire, explosion, war or civil disorder then the other party will have no liability to the other for that failure to perform.

2.8.2 If any of the events described above continue for more than three months then either party may serve notice on the other terminating the POA or contract.

2.9 Notices

2.9.1 Notices given under the POA must be in writing and may be delivered by hand or by courier or sent by facsimile transmission, email, or first class post to the Company's registered office.

2.9.2 To be valid any claim against the Company, whether in agreement, contract or tort, must be brought within one year of the date of invoice and any such claim shall be limited to an amount by way of liquidated damages equal to the invoice value of the goods or service in respect of which the claim is made.

2.10 Subcontractors

2.10.1 The Company may, as it sees fit, sub-contract work to appropriately qualified third-parties.

2.11 Suspension

2.11.1 The Company may suspend any service where the Customer is in breach of contract in accordance with section 3.4 and, or when the equipment or service is being used unlawfully in accordance with section 2.6.1

2.12 Termination

2.12.1 Upon the termination of any service provided, for any reason, the Customer shall not be entitled to reimbursement of any pro-rata part (calculated on a time basis) of any service paid for in advance.

2.13 Payment

2.13.1 The Company accepts payments by Direct Debit, direct bank transfer or by cheque.

2.13.2 All recurring charges (whether for services or otherwise) will be due within fifteen days of the date of the Company's invoice.

2.13.3 The Company may charge daily interest on late payments at a rate equal to 4% per annum above the base lending rate of Barclays Bank plc.

2.13.4 All charges presented are exclusive of VAT at standard rate unless otherwise stated.

2.13.5 The Company reserves the right to adjust the charge applicable to any service delivered after the minimum service period has expired by notification of the increase by letter to the Customer at least one month before the adjustment is due to take effect.

2.13.6 Unless prices are confirmed in a quotation that has not expired, the Company may pass on to the Customer any increase in charges levied upon it by third-parties or manufacturers or other suppliers.

3 Specific

3.1 – Payment and reclamation of subsidies

3.1.1 - Subject to the remaining provisions of this clause 3.1, the Company may provide the Customer with a subsidy as a result of the Customer entering into the POA.

3.1.2 - This subsidy may be provided using the methods set out below or any combination of them.

3.1.3 - Deducting this from the value of the equipment or the services that the customer orders from the company or:

3.1.4 - by paying monies to the Customer. Such monies shall be paid quarterly over the term of the POA

3.1.5 - Using such amount to discharge any network termination charges subject to the Company seeing the relevant termination invoice (but no other termination charges relating to any other agreement whatsoever unless agreed expressly in writing).

3.1.6 - Any subsidy pursuant to clause 3.1.2 shall be payable quarterly beginning within 90 days of the date of the Customer's invoice to the Company. It is the sole responsibility of the Customer that the Company has received the said invoice with documentation supporting this (save that no invoice shall be necessary where subsidy is being deducted from the price of the equipment /services ordered by the Customer pursuant to clause 3.1.2) provided that:

3.1.7 - The service is still active and not pending disconnection on the payment date that the instalment of the subsidy is due:

3.1.8 - Where the invoice is payable in instalments or after a prescribed period the trigger date has passed.

3.1.9 - The invoice has been raised in accordance with the provisions of this agreement; and

3.1.10 - where the invoice is for termination charges pursuant to clause 3.1.5, this amount is invoiced within 3 months from the connection date; and or invoice is for payment of monies pursuant to clause 3.1.4, this amount is invoiced by the Customer within 90 days of it becoming payable; and or amount claimed is being deducted from the price of equipment/services ordered by the Customer pursuant to clause 3.1.3, this amount is claimed during the minimum term; and in the event that the Customer fails to invoice/claim the subsidy within the stated timescales set then the Customer's right to the subsidy shall cease.

3.2 The Customer acknowledges that:

3.2.1 - The payment of the subsidy is conditional upon: (a) the Customer maintaining each service/connection for the minimum term; the Customer not downward migrating any service/connection during the minimum term and such other conditions as are notified to the Customer by the Company.

3.2.2 - The Company will provide the subsidy prior to the satisfaction of the conditions set out in clause 3.2.1 and hence the need for clause 3.3

3.3 - The Company shall be entitled to reclaim the subsidy (or such proportion of the subsidy) already paid to the Customer (or withhold such amount from any subsidy or instalment to be paid to the Customer) if:

3.3.1 - A service/connection is for whatever reason disconnected or downward migrated prior to the expiry of the minimum term; or...

3.3.2 - The relevant service provider (for whatever reason) reclaims or withholds any of the connection monies paid to the Company by the service provider for that connection; and the proportion of the subsidy that the Company shall be entitled to reclaim from the Customer shall be the monthly subsidy amount for each month (and such pro rata amount for each incomplete month) of the balance of the minimum term which is unexpired at the date of disconnection or the downward migration.

3.3.3 -The relevant network/service provider (for whatever reason) reclaims or withholds any of the connection monies paid to the Company for that connection, the Company shall be entitled to reclaim from the Customer the full amount of the connection monies reclaimed by the service provider.

3.4 Breach of Contract

3.4.1 Either party may terminate the POA without further notice if the other commits a material breach of these terms and conditions which is not remedied within 90 days.....

3.4.2 or if the other commits a material breach of the POA that cannot be remedied..

3.4.3 or if the other is the subject of a bankruptcy order, goes into liquidation, makes a voluntary agreement with its creditors, or has a receiver or administrator appointed.

3.4.4 or if the Customer fails to pay any sum due in for any service provided, by the due date of payment.

The Customer acknowledges that:

3.4.5 - If the Customer (for whatever reason) cancels prior to connection, cancels a service/connection prior to the expiry of the minimum term, or a service/connection is downward migrated during the minimum term the Company shall be entitled to charge the Customer an administration charge of £250.00 for each service/connection.

3.4.6 - It is agreed between the Customer and the Company that £250.00 per service/connection is a fair estimate of the administrative expenses incurred in processing the event described in 3.4.5 and the Customer agrees not to challenge the charge as a penalty.

3.4.7 - Any sum reclaimed (or withheld) pursuant to clause 3.3 shall be invoiced to the Customer and shall be payable (unless withheld) within 15 days of the date of the invoice.

3.5 Line Provision

3.5.1 The Company will use reasonable endeavours to provide the service by the date agreed with the Customer but all dates are estimates and the Company has no liability for any failure to meet any date.

3.5.2 Specifically, the Company cannot be held responsible for any delays on the part of BT.

3.5.3 The Customer may cancel the Service at any time before the operational service date but must pay the Company for any work done or money spent in getting ready to provide the service, plus any sum that the Company is liable for from any third-party, plus an administration fee of £500.00.

3.5.4 It is agreed between the Customer and the Company that £500.00 is a fair estimate of the administrative expenses incurred in processing the events described in 3.5.3 and the customer agrees not to challenge the charge as a penalty.

3.6 Line Rental

3.6.1 If the Customer cancels the service within the minimum period the Customer must pay a line rental termination charge.

3.6.2 The minimum period is as agreed in the POA.

3.6.3 The line rental termination charge will be the aggregate of the value of the unexpired period of the line rental (calculated on a time basis) and an administration charge of £250.00 per line plus any sum that the Company is liable for from any third-party.

3.6.4 It is agreed between the Customer and the Company that £250.00 per line is a fair estimate of the administrative expenses incurred in processing the event described in 3.6.1 and the Customer agrees not to challenge the charge as a penalty.

3.6.5 The Company cannot be held responsible for any aspect of performance of this service that adversely, either directly or indirectly, affects the business of the Customer.

3.7 Data Services (Broadband/FTTC/EFM/Leased lines)

3.7.1 If the Customer cancels the Service within the minimum period the customer must pay a data services termination charge.

3.7.2 The minimum period is as agreed in the POA.

3.7.3 The data services termination charge will be the aggregate of the value of the unexpired period of the data services (calculated on a time basis) and an administration charge of £500.00 plus any sum that the Company is liable for from any third-party.

3.7.4 It is agreed between the Customer and the Company that £500.00 is a fair estimate of the administrative expenses incurred in processing the event described in 3.7.1 and the Customer agrees not to challenge the charge as a penalty.

3.7.5 The Company cannot be held responsible for any aspect of performance of this service that adversely, either directly or indirectly, affects the business of the Customer.

3.6 Sale of Equipment

3.6.1 Title of all equipment shall remain with the Company until the Company has received payment in full

3.6.2 If the equipment is delivered to the Customer, until such receipt of payment by the Customer, the Customer shall be deemed to be a bailee of the equipment. Under the terms of this bailment If payment of the total price of the equipment is not made on the due date then the Company shall have the right, with or without notice, at any time, to retake possession of the whole or part of the equipment (and for that purpose to go upon any premises occupied by the Customer)

3.7 Equipment warranty

The Company will repair equipment supplied under the POA free in accordance with the terms and period of the manufacturers warranty. The Customer will return the equipment to, and collect it from the Company's Stokesley premises at it's own risk and expense.

3.8 Maintenance Insurance terms and conditions

3.8.1 Subject to section 3.6 the Company will commence during normal working hours all adjustments, repairs and replacements of defective components resulting from faulty workmanship and/or materials which in the opinion of the company are necessary for the proper functioning of the equipment. The Customer will give access to its premises and the equipment for this purpose. Refusal to facilitate such access will entitle the Company to levy a charge. Where the Company replaces defective equipment or part thereof it shall be entitled to supply serviceable reconditioned items. All the terms and conditions of this contract shall continue to apply to the equipment embodying such substituted items.

3.8.2 Maintenance shall include: work restricted to equipment scheduled in the equipment details shown in the hosted telephone system POA.

3.8.3 Spare parts: The provision of all necessary spare parts, which may be new or used, required to keep the equipment in satisfactory operation. All replacement parts shall become the property of the Company. The Company may fit adequate replacement parts, which are not the same as those being replaced. Replacement equipment may be offered at a concessionary price if repair is considered impossible or uneconomic whether due to the unavailability of spares or otherwise.

3.8.4 Commissioning faults must be reported within 7 days of system installation. The Customer will promptly notify the Company when any fault occurs.

3.8.5 The Customer will not attempt to maintain the equipment or any associated infrastructure. By attempting to do so any obligations on the part of the Company shall become void and the Company shall be entitled to levy a charge upon the Customer.

3.8.6 The Customer will protect the health and safety of the Company's servants, agents and contractors while they are on the Customer's premises and will indemnify the Company against any claims arising out of their failure to do so.

3.9 The Company shall not be obliged to provide maintenance services hereunder of any of the equipment if such maintenance services are necessitated as a result of:

3.9.1 repairs, service or performance related problems caused by inadequate broadband speed or customer's broadband provider, if this is not the Company

3.9.2 accidental damage caused by third parties, contractors etc. not engaged by the Company.

3.9.3 fair wear and tear.

3.9.4 failure or fluctuation of electric power, air conditioning, humidity control or other environmental conditions.

3.9.5 accident, transportation, neglect, misuse or default of the Customer or any other third party (including BT)

4 The Company shall not be liable for any delay or failure in performing its obligations hereunder if any spare part is not available.

5 The Company shall not be obliged to provide services hereunder and will be entitled to levy a charge if such Services constitute:

5.1 re-siting and re-cabling equipment.

5.2 re-programming equipment on-site or at base.

5.3 installing additional equipment.

5.4 no-Fault-Found Customer visits.

5.5 failed visits due to inadequate planning by Customer including missing parts, Customer personnel absences or any other reason outside the control of the Company.

5.6 servicing, repairing or replacing customer equipment on-site due to neglect or misuse.

5.7 servicing, repairing Customer equipment at base due to neglect or misuse.

5.8 resolution of software or hardware conflicts caused by Customer's IT system.

5.9 resolution of software or hardware conflicts caused by Customer's IT provider. Customer is responsible for ensuring co-operation from in-house or third-party IT personnel.

5.10 repair or resolution of failure or damage caused by BT where the Company is not the telephone line provider.

5.11 repair or resolution of failure or damage caused by the connection or integration of unauthorised equipment to the system without the written approval of the Company.

5.12 Liaison and co-operation with Customer appointed service providers, contractors or third parties in order to repair, resolve or optimise systems.

6 When the Customer reports a fault the Company will respond either by:

6.1 providing advice by telephone.

6.2 by carrying out remote diagnostic checks

6.3 by attending the Customer's premises.

7 The Company shall respond to a request within 4 business hours of receipt if there is a complete system failure. In all other instances the Company shall respond to a request for service maintenance within 16 business hours of receipt.

8 In rectifying a fault it may be necessary for the Company to reset the equipment and in doing so the Company will not be responsible for the reconfiguration or reprogramming of the Customer's or its employee' requirements.

9 The Company shall be entitled to exercise a lien over any equipment or goods belonging to the Customer in the Company's power, possession, custody or control as security for any charges or other monies due from the Customer to the Company whether or not invoiced.

10 All consumables required to enable the Company to rectify any defects in the equipment including, without limitation, cassette tapes, print ribbons, toner, developer and paper will be provided to the Company at the expense of the Customer.

11 Change of address

11.1 The Customer will promptly notify the Company of its intention to change the address at which the equipment is installed. In the event that the equipment is removed to another address the Company shall be relieved of its obligations under the POA whereupon any outstanding liabilities of the Customer will become immediately payable to the Company provided that the Company shall be entitled to elect to provide maintenance services in respect of such equipment on the terms specified in section 3.6.38.

11.2 If the equipment is moved to another premises and the Company continues to provide maintenance services, the Company will be entitled to review and if appropriate increase the maintenance charge payable under the POA, to cover any additional costs to the Company in providing maintenance services at the new location.

12 Inspection

12.1 The Company shall be entitled to inspect the equipment before accepting any request to undertake any maintenance obligations in respect of such equipment.

13 Cancellation

13.1 If the Customer wishes to cancel the maintenance services within the minimum period as described in the POA the customer must pay a maintenance service termination charge.

13.2 The maintenance service termination charge will be the aggregate of a sum equalling 30 days of service plus any sum that the Company is liable for from any third-party, plus an administration fee of £250.00.

13.4 It is agreed between the Customer and the Company that £250.00 is a fair estimate of the administrative expenses incurred in processing of the event described in 13.1 and the Customer agrees not to challenge the charge as a penalty.

13.5 Upon the termination of any maintenance services provided, for whatever reason, the Customer shall not be entitled to reimbursement of any maintenance services paid for in advance.

13.6 If notice is not received to cancel the maintenance agreement within the minimum period of 30 days prior to its renewal it will automatically roll over into a 30 day contract.

14 Service Charges

14.1 Maintenance insurance pricing includes, but is not limited to, the support of hardware, handsets, contact centre routing and integrated voicemail systems. The pricing excludes any applications or peripheral equipment e.g. analogue devices, music on hold, contact centre server, vendor specific voicemail systems and 3rd party voicemail, call loggers, call recorders, FAX, EPOS, BACS, door entry, accessories i.e. Bluetooth headsets and any additional DECT equipment both third party or manufacturer specific to the core system.

14.2 Service outside of the specified service level, or if the Customer has not requested maintenance services is at the Customer's expense as follows: Telephone service, remote on-line assistance or 'at base' repairs: **£20.00 per half-hour or part half-hour**. Engineer site visits. Up to two hours **£75.00**. Half day **£125.00** Full day **£250.00**. Prices are labour only. Consumables and parts will be charged for. Travel exceeding 50 miles total will be charged at 40p per mile.

15 Site Visits

15.1 Site visits by the Company are at the sole discretion of the Company and can only be commenced after a Customer purchase order or written request has been received by the Company.

15.2 Purchase orders or requests can be transmitted to the Company by email, fax, or in writing by hand or Royal Mail to the address below.

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