

GENERAL SERVICES AGREEMENT

PARTIES

1. The Supplier **AIR-TALK LIMITED** incorporated and registered in England and Wales with Company Number 08994587 whose registered office is at Kemp House 152-160 city road, EC1V 2NX UK (Supplier).
2. **The Customer:**

This agreement together with any Application accepted by us shall constitute your agreement with us for the provision of the communication services (the "Agreement"), where we provide the communication services to you in conjunction with additional value added services (e.g. video conferencing, SIP trunking, pbx, SMS, broadband, unified communications etc). Then the specific agreement applicable to each of services will also apply to you.

DEFINITIONS

Words and expressions that appear in these terms and conditions shall have the following meanings:

- 1.1 "Air-Talk Limited", "We", "Us", or "Our" mean Air-Talk Limited Limited Company incorporated in England and Wales registered under Number 08994587 whose registered office is at Kemp House 152-160 city road, EC1V 2NX UK. And "you" and "your" or "Customer" means you, our customer.
- 1.2 "Call" means a signal, message or communication which is silent, spoken or visual on each Line that we agree to provide to you under this Agreement.
- 1.3 "Conditions" means these Conditions for Communications Services and any other conditions specific to other Services
- 1.4 "Contract Renewal" means an automatic renewal of your contract for a further 12 months after the initial Minimum Term and each subsequent 12 month renewal thereafter.
- 1.5 "Customer Service Plan" means the provisioning and fault management support processes and escalation paths as may be published and varied by us from time to time.
- 1.6 "Line" means a connection to our network or that of our suppliers, whether direct or indirect.
- 1.7 "Minimum Term" means each minimum initial and subsequent period of service for each Service as shown on the Service Agreement and Order Schedule, the initial period to start on the date on which the relevant Service is first made available to you for use. For the avoidance of doubt, unless otherwise agreed the Minimum Term will be 24 months or such other period as may be notified to you in accordance with paragraph 17.2.
- 1.8 "Sale Equipment" means the equipment identified on the Service Agreement, Order Schedule or otherwise notified to you in writing that we will sell to you, subject to the provisions of this Agreement.
- 1.9 "Service" or "Services" means all or part of the Services explained in paragraph 2 or identified in the Service Agreement and Order Schedule and any related services that we agree to provide to you under this Agreement.
- 1.10 "Service Agreement" means (i) where you place an order with us by telephone, the confirmation of order accompanying these Conditions for Communications, or (ii) where you place a written order, the document you sign when you become our customer, or (iii) where you place an order on our website, the confirmation of order accompanying these Conditions for Communications, in each case detailing, amongst other things, the Services you wish to receive, the minimum period you wish to receive the Services for and the Tariff at which you will be charged and which forms part of this Agreement.
- 1.11 "Tariff" means our tariff referred to in the Service Agreement and Order Schedules and as amended from time to time under paragraph 17.2 above. For the avoidance of doubt, any tariff sheet provided by you is not a valid Tariff.

SERVICES

2. Service Provisioning:

- 2.1 Services supplied by us are those
 - a) Elaborated in the Order Schedules or proposal or
 - b) Ordered via our website by you or on your behalf by a third party from us) and which you have subsequently confirmed that you wish to receive, or

- c) Which you have subsequently ordered in writing, by fax, by email or by telephone, and in each case which we have agreed in writing or by email to supply to you. These may include (but are not limited to):
- The ability to make or receive a Call (telephone service);
 - The provision of IP telephony services (IPT service);
 - The provision of a Line or Lines for a rental charge (line rental service);
 - The provision of Broadband internet access (Broadband service);
 - The provision of Inbound telephony services (Inbound service);
 - The provision of Data services (Data service);
 - Any other Services which we may offer for sale from time to time.

2.1.1 Your contract "Contract Commencement Date" will be the date on the signed service agreement or the date each Service is first made available to you for use, whichever is the latest. You accept that this may mean you will have multiple Contract Commencement Dates however each Contract Commencement Date will be subject to the Minimum Term. Where you are not currently in a contract we may notify you of a change to these Conditions, by giving you at least 30 days' notice then your new Contract Commencement Date will be the date the new Conditions came into effect. Where there may be any conflict regarding your Contract Commencement Date, then you agree the actual Contract Commencement Date will be the date you first used the Service(s) other than where we have given notice of a change to these Conditions.

2.1.2 All Services allow access to caller location information (when based in the UK) unless specifically advised otherwise within this Agreement. Such access may be subject to the availability of a power supply to the line and alternative arrangements are your responsibility in the event of a power failure.

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

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

2.4 Broadband Service:

- a) If we consider that your bandwidth usage profile is abnormal or out of the ordinary (including without limitation extremely high levels of bandwidth use in a given period), we have the right to take such action as we deem appropriate which may include, without limitation, restricting or suspending your use of the broadband service, or increasing the charges you pay for the broadband service.
- b) We will make reasonable endeavours to inform you in advance if we impose any restrictions on your use of the broadband service.
- c) Your use of the broadband service is entirely at your own risk. We will not be liable for any loss or damage arising from any virus, Trojan horse, spam or other malicious content that you may receive while using the broadband service notwithstanding that there may be a firewall contained in equipment supplied in connection with the broadband service.

2.5 Inbound and Outbound Call Service:

- a) All calls are to be routed over our chosen network. Should any calls be routed over any other network with or without your knowledge, other than during a service failure or network outage that we have notified you of or for any other reason we may agree with you, then we reserve the right to bill you at our standard tariff which at the time of application will mean the latest version available on our website
 - b) We reserve the right to apply a nominal monthly charge for each inbound number, where the only service you take from us is the inbound service.
- a) If an inbound number is withdrawn by Ofcom or Phone pay Plus or any of our suppliers for reasons beyond our control we reserve the right to recover the number(s) from you immediately. We will use our reasonable endeavours to supply you with another number which is acceptable to you.
 - b) Where you take an international number as part of the Inbound Service, in addition to the above, the following shall apply:

- I. We cannot guarantee call quality and shall not be liable for service incompatibility. It is recommended that you perform full compatibility tests prior to publishing any international number(s) provided by us;
- II. you accept that restrictions to the service may apply in certain countries;

2.6 IT Service:

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

2.8 Other Services:

- 2.8.1 All Services may be subject to Acceptable Use Policies and Fair Use Policies. Where any fair usage is exceeded, additional charges will apply.
- 2.8.2 You agree and acknowledge that your use of a Service must comply with all relevant legislation, regulations, guidelines and codes of practice and that Air-Talk Limited Limited will not be liable where your use of this Service fails to comply. Should we reasonably suspect that your use of a Service is in breach of any applicable legislation, regulation, guidelines or codes of practice or any other reasonably suspected abuse or bad practice then we reserve the right to suspend or terminate such Service with immediate effect.
- 2.8.3 You agree that some Services variants may be subject to availability and where an ordered Service is not available for any reason we reserve the right to provide an alternative Service variant for which you may incur different charges. Where a Service variant is not available we will make best endeavours to advise you of this before progressing with your order

2.9 Services with Call Recording:

Where you take a service which includes call recording of inbound and/or outbound calls you acknowledge that the information should not be relied upon in isolation and hereby accept that it is your responsibility to obtain legal advice to ensure you are fully compliant before recording any calls. You further confirm that you will comply with all legal requirements when using any call recording product and agree that Air-Talk Limited Limited shall have no liability for any costs or claims which may be incurred as a result of any failure by you to comply with any legal requirements whether or not you were aware of the requirement.

2.10 Services with Music on Hold:

Where you take a service which permits you to upload music files for a music on hold feature. You agree to obtain any necessary licences and consents as may be required and agree to indemnify us from any direct or indirect claims where you fail to do so.

3. Telephone Numbers:

- 3.1 You accept that you do not own the number(s) provided to you and that this agreement is personal to you. Therefore, you have no right to sell or to agree to transfer the number(s) provided to you for use with the Services and you must not do so or try to do so.
- 3.2 You also accept that we have the right to reallocate to a third party any numbers that are provided to you for use with the Services but that you do not use for a period of three (3) months. However, if you continue to pay any recurring rental charges for those numbers, we shall not exercise this right.
- 3.3 If your line is reconnected after a suspension due to non-payment of bill, we cannot guarantee retention of the same number.
- 3.4 You do have the right to request to migrate numbers to another provider subject to your remaining contractual obligations contained within this Agreement.

4. Changes and Interruptions to the Services:

- 4.1 We may have to do some things that could affect the Services. If we have to interrupt the Services we will restore them as quickly as we reasonably can.
- 4.2 Occasionally we may have to:
 - i. Change the code or phone number or the technical specification of the Services for operational reasons;
 - ii. Interrupt the Services for operational reasons or because of an emergency;

- iii. Give you instructions that we believe are necessary for health or safety or to maintain the quality of the Services that we supply to you or to our other customers.
- 4.3 We cannot guarantee and does not warrant that the Services will be free of interruptions or will be fault-free and we will not be liable for any loss or damages should the Services be interrupted from time to time. You accept that there may also be degradations of the quality of the Service from time to time due to matters beyond our control and that we will not be liable for any loss or damages should the quality of the Service we provide be affected by such matters.

EQUIPMENT

5. Equipment:

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

6. Sale Equipment:

- 6.1 The quantity and description of and any specification for the Sale Equipment shall be those set out in the Service Agreement, Order Form or product service descriptions as may be amended from time to time.
- 6.2 We shall deliver the Sale Equipment to your address as specified in the Service Agreement and Order Schedules, and time shall not be of the essence for delivery.
- 6.3 Risk in the Sale Equipment will pass to you on delivery of the Sale Equipment. Therefore, it is your responsibility to look after the Sale Equipment and you will have to pay if you wish to replace or repair the Sale Equipment if it is lost, stolen or damaged.
- 6.4 You will not own the Sale Equipment until you have paid us in full for the Sale Equipment and we reserve the right to require you to return to us, or for us to collect (at your cost), the Sale Equipment if you do not pay us in full for the Sale Equipment by the due date for payment. Subject to the foregoing, you will be entitled to continue to use the Sale Equipment after expiry or termination of this Agreement.
- 6.5 You will be responsible for installing the Sale Equipment. We will not be liable for any loss, costs, damages or faults caused by, or repairs required as a result of, installation or misuse of, or damage to, any Sale Equipment. You agree to indemnify us for all claims, losses, damages and expenses that are brought against us, incurred by us, or arising as a result of the same.

YOUR INFORMATION

7. Call Monitoring:

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

8. Data Protection and Use of Your Information:

- 8.1 All information that we hold concerning you as an individual ("Personal Data") will be held and processed by us strictly in accordance with the provisions of the Data Protection Act 1998. Such data will be used by us to provide you with the Services, for related purposes and for the purposes set out in paragraph 8.2 We will not, without your consent, supply any Personal Data to any third party except where (1) such transfer is a necessary part of the Services that we undertake, (2) we are required to do so by operation of law, or (3) we share information for the purpose of managing and administering our relationship with our dealers or channel partners.
- 8.2 We would like to use the information we have about you and your use of the Services (this includes information about your bill size, the numbers you call and the times you call) to inform you about the products, services, pricing packages and special offers which we provide and which we believe may be of particular interest to you.
- 8.3 You have the right under the Data Protection Act 1998 to obtain information, including a description of the data that we hold on you. Should you have any queries concerning this right, please contact us.
- 8.4 You must inform us immediately if any of the information you have provided to us about you in connection with this agreement changes.

- 8.5 You acknowledge that in connection with the provision of the Services detailed technical information (including by way of example, but without limitation, information as to your existing telecoms suppliers and supplies) as well as your contact details may have been provided on your behalf by a dealer with whom you may have had initial discussions and you hereby confirm to us that we may rely on that information.

YOUR OBLIGATIONS

9.1 Charges:

You must pay the charges for the Services according to the applicable Tariff(s). This applies whether you or someone else uses the Services and whether the Services are used with your full knowledge and consent or otherwise. (This means by way of example but not by way of limitation that you are liable to pay for all calls made as a result of "rogue diallers", unbarred premium rate numbers and calls made by any third party gaining unauthorised access to your telephony systems). We may vary the charges set out in the Tariff as explained in paragraph 17.2.

9.2 Installation and Connection Charges:

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

Notified to you at the time.

9.3 Equipment:

You must pay the charges for any Sale Equipment that we supply to you.

9.4 Invoices:

We will send you your first invoice at the beginning of the month after the services commence and thereafter on a monthly basis, but we shall be entitled to send you an invoice at a different time, which you shall pay in each case in accordance with paragraph 10.7. We will send all invoices and other correspondence to the address set out in the Service Agreement or otherwise the address you ask us to. We will include all charges on the next invoice where possible, and in any event as soon as we can. Invoices shall be deemed to have been accepted by you if you do not present a written objection, identifying clearly the disputed invoice and the reasons why it is challenged. If such objection is made we shall both make all reasonable efforts to resolve such dispute promptly. Provided you comply with these requirements in presenting your objection, if we fail to respond to that objection within thirty (30) days after its receipt by us, the objection will be deemed to have been accepted by us. We will accordingly amend the relevant invoice either with an appropriate credit to you or you shall be liable to pay the balance (if any) of the amended invoice within seven (7) days of its receipt by you.

9.5 Rental and Call charges:

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

9.6 Payments in advance and deposits:

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

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

9.7 **Terms of payment:**

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

9.7.2 We may immediately suspend your access to the services provided in the event that you do not pay an invoice within the given time period paragraph 9.7.1 and minimum suspension charges of £50 will apply. A charge of £40 apply for reconnection of the service.

9.8 **Tariff:**

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

(b) Our call rates for outbound calls to UK non-geographic numbers are charged. You hereby acknowledge and agree that there may be occasions where charges for some of these call types may change, we will apply this change from the 1st of the month following the change and you acknowledge that we may not always be able to give you notice of such changes.

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

(d) Unless otherwise agreed with you in writing all call costs in our Tariff are displayed in pence per minute. All billing is per minute, call durations are measured up to the whole minute and the call charges rounded up to a penny.

(e) Should you terminate your inbound calls to a mobile, landline, a non-geographic or an international number than standard call charges will apply and are available on request.

(f) You accept there may be charges for elements of a Service (such as additional features, moves or ceases) that you may incur which may not be detailed in your Service Agreement but you accept responsibility for these charges should they occur.

9.9 **Inbound Rebates:**

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

9.10 **Offsetting:**

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

9.11 **Online Orders and Payments:**

Where you place an order and make a payment online for that order and we accept your order, we will confirm your order and receipt of payment by email at which point your contract will be binding. You may also get a payment confirmation from the third party payment processing company. Where we do not accept your order we reserve the right to return a payment to you. You should contact us immediately if you have any concerns regarding the order or payment. Where you fail to advise us of any issues regarding your online payment we are not liable for any consequences of any such payment but will make reasonable endeavours to rectify any of your concerns.

9.12 **Other Charges:**

We reserve the right to make a nominal monthly charge for paper itemised billing; our basic online billing is provided as standard to all customers free of charge.

9.13 **Credit Limit:**

We may apply a credit limit to your account and if you exceed this credit limit we reserve the right to suspend Services until you have paid a deposit.

9.14 **Unusual Call Profile:**

If in our reasonable opinion your call profile is indicative of fraudulent activity we reserve the right to suspend Service immediately without notice.

YOUR OTHER RESPONSIBILITIES

10.1 Our equipment and instructions:

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

10.2 Entry to your premises:

- (a) If our engineers or sub-contractors have to enter your premises you agree to let them do so within normal working hours (Monday to Friday, 9am to 5pm) or otherwise if agreed with you in advance. We will meet your reasonable requirements regarding the safety of people on your premises and you must do the same for us.
- (b) If we need someone else's permission to cross, or put our equipment in, or make an installation on their premises, you must get that permission for us and make any necessary arrangements. We will not be liable for any loss or damage where this permission is not obtained by you and you agree to pay any costs actually incurred.
- (c) When our work is completed, you will be responsible for putting items back and for any necessary re-decorating.

10.3 Misuse of the Services:

Nobody must use the Services:

- (a) To make abusive, defamatory, obscene, offensive, indecent, menacing, disruptive, nuisance or hoax Calls, emails or other communications or Calls, emails or other communications in breach of privacy or any other rights;
- (b) To send, knowingly receive, upload, display, download, use or re-use material which is abusive, defamatory, obscene, offensive, indecent or menacing or in breach of copyright, privacy or any other rights;
- (c) To send and receive data in such a way or in such amount so as to adversely affect the network (or any part of it) which underpins any Service or to adversely affect our other customers or customers of our suppliers;
- (d) For the carrying out of fraud, an unlawful activity or a criminal offence or in a way which does not comply with the terms of any legislation;
 - i. In a way that does not comply with any instructions given by us to you under paragraph 10.1;
 - ii. To obtain access, through whatever means, to restricted areas of the underlying network; or
- (g) In a way which (in our reasonable opinion) brings our name into disrepute, or which places us in breach of our legal or regulatory obligations, and you must make sure that this does not happen. The action we can take if this happens is explained in paragraph 14. If a claim is made against us because the Services are misused in these ways, you must indemnify us in respect of any sums we are obliged to pay and/or costs we incur.

- 10.4 **Indemnity:**
- (a) If you use the Services for business purposes, you must indemnify us against any claims that anyone (other than you) threatens or makes against us because the Services are faulty or cannot be used by them.
 - (b) Where you take any product or service via Air-Talk Limited Limited for which you are billed by us but where you are directly contracted to third party for that product or service, including but not limited to maintenance and insurance, you agree to indemnify us from any direct or indirect claims in relation to this product or service. You also agree not to make any deduction from any monies owed to us as a result of any dispute you may have with any such third party.
- 10.5 **Line Rentals:**
- When we provide your Line rentals, we will route your Calls through our network. No other service provider may route these calls or attempt to, and if they do we reserve the right to bar these calls.
- 10.6 **Call Charges:**
- We will bill you for all Calls that are routed over our chosen network provider. Any Calls that are routed by other means for any reason beyond our control and for which you are invoiced by another provider will remain your responsibility. It is your responsibility to advise us if you receive invoices from other providers for services you believe to be with us and you should advise us as soon as you receive these invoices. We shall not be liable for any loss or damages as a result of you being invoiced by other providers (including but not limited to any perceived loss of savings).
- 10.7 **Existing Contractual Obligations:**
- It is your responsibility to ensure that signing a contract with us does not breach any existing contractual obligations you may have with any other suppliers and you should give any other suppliers notice as may be required by them. We are not responsible or liable for any costs, financial losses or disputes that may arise from any such breach of contract or your failure to give the correct notice.
- 10.8 **Resilience:**
- It is your responsibility to ensure you have adequate resilience in place to protect against any loss of data, service or connectivity; this includes a separate power supply for IPT phones. In accordance with paragraph 12.2, we will not be liable for any loss or damage (financial or otherwise) where you fail to do so.
- 10.9 **Emergency Calls:**
- IP Phones need an additional power supply to operate. In the event of a power failure it is your responsibility to ensure you have the means to make emergency calls. In accordance with paragraph 12.2, we will not be liable for any loss or damage (financial or otherwise) where you fail to do so.
- 10.10 **User Names, Passwords and Pin Codes:**
- It is your responsibility to keep private any user names, passwords or pin codes that we may provide you with to use any of our Services. You are liable for all charges associated with the use of such user names, passwords and pin codes to access our Services unless you advise us that the security of any of the user names, passwords or pin codes may have been compromised and we confirm back to you that we have disabled the access. Should you fail to notify us of any such compromise in security then you will remain liable for all charges incurred in accessing the Services. Where we disable any access following a compromise in security, we shall provide you with new user names, passwords or pin codes as appropriate which are subject to the terms of this paragraph.
- 10.11 **Your Details:**
- It is your responsibility to inform us of any changes to any of your personal details including but not limited to contact names, telephone numbers, email addresses, site addresses or billing addresses. We shall not be liable for any consequence of us having any incorrect details unless due to our negligence.

REPAIRING FAULTS

- 11 **Repairing faults:**
- 11.1 We will investigate any fault that is reported to us according to our standard procedures for the Service in question (which are available on request). We will use reasonable endeavours to repair any fault that is reported to us

and which is directly caused by us or our employees or agents according to our standard procedures for the Service in question.

- 11.2 When we agree to work on a fault outside the hours covered by our standard procedures, you will be liable to pay us an extra charge at the applicable rate in force at the time.
- 11.3 If you tell us there is a fault in a Service and we find either that there is not or that you, someone at your premises or a third party (including, without limitation, another network operator or communications supplier) has caused the fault or the interruption in service, we may charge you for any work we have done to try to find the fault or to repair it. We are not liable for any loss or damages arising from a fault or interruption in service caused by someone other than us, and we are not responsible for fixing any faults not caused by us.
- 11.4 During any fault investigations, we may require you to carry out tests and we will require you to feedback any results of these tests to allow us to follow our standard procedures and conclude our investigations.
- 11.5 Where Call routing utilises IP, you acknowledge that call quality and availability can be subject to factors outside of our control e.g. bandwidth contention or quality of service (QoS). We shall not be liable to you in respect to any quality or availability issues with such a Service.

LIMITATION OF LIABILITY

12. Liability:

- 12.1 We accept liability for fraud or fraudulent misrepresentation. We do not limit that liability and paragraphs 13.2 and 13.3 do not apply to that liability.
- 12.2 We have no liability (howsoever caused including (without limitation) by negligence) for any loss of business, profits, revenue or savings you expected to make, wasted expense, financial loss, data being lost or damaged, lack of availability of IT and/or communications systems not provided by us, damage to reputation or for any liability for any loss that is not reasonably foreseeable or for any indirect or consequential loss.
- 12.3 Except as expressly set out in this Agreement, all conditions, warranties, terms, undertakings and obligations implied by statute, common law, custom, trade usage or otherwise are hereby excluded to the maximum extent permitted by law.
- 12.4 Each part of this Agreement that excludes or limits our liability operates separately. If any part is disallowed or is not effective, the other parts will continue to apply.
- 12.5 We are not responsible for any pricing, typographical, or other errors and reserve the right to reject any orders where such an error may have occurred.
- 12.6 The provisions of this paragraph 12 shall continue to apply notwithstanding termination of this Agreement.

13. Matters beyond Our Reasonable Control:

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

CHANGING AND TERMINATING THE AGREEMENT

14. Breach of the Agreement:

- 14.1 We may suspend any or all of the Services or terminate the Agreement immediately at any time by notifying you in writing if:
- (a) You commit a material breach of this Agreement or any other agreement you have with us and fail to remedy the breach within a reasonable time of being asked to do so;
 - (b) We believe that the Service(s) are being used in a way forbidden by paragraph 10.3. This applies even if you do not know that the Service(s) are being used in such a way;
 - (c) Bankruptcy or insolvency proceedings are brought against you, or if you do not make any payment under a judgment of a court on time, or (if you are a business) you make an arrangement with your creditors, or a receiver or administrator is appointed over any of your assets, or you go into liquidation.
- 14.2 If you fail to pay any charges due to us by the due date we may (without losing or reducing any other right or remedy) suspend any Service (in whole or in part) or terminate the Agreement without notice if;

- (a) You fail to make any payment requested within seven (7) days of the date of a letter, e-mail or other appropriate correspondence requesting such payment;
 - (b) Two (2) consecutive direct debit requests are rejected; and/or
 - (c) You fail to pay any payment on the due date where there have been two (2) preceding failures which were remedied within the seven (7) day period.
- 14.3 We reserve the right to charge interest at the rate of five percent (5%) above the bank of England base rate per annum on any charges not paid by the due date for payment until the date when they are received by us.
- 14.4 If we suspend any Services, we will not provide them again until you rectify the situation that caused us to suspend the Services or you have satisfied us that you will do so or that the Services will not be used in a way that is forbidden by paragraph 10.3.
- 14.5 If we suspend any Services because you breach this Agreement, the Agreement will still continue and you must still pay us any rental charges as and when they arise unless and until the Agreement is terminated.
- 14.6 If this Agreement or any of the Services are terminated in accordance with this paragraph 14 during the Minimum Term or any agreed term applicable to each of the Services, we will levy a cancellation charge in relation to each relevant Service calculated in accordance with the following:-
- (a) Each Service for which a monthly rental charge is payable - number of months remaining of Minimum Term for that Service multiplied by the monthly rental; and/or
 - (b) Repayment of any discount or other benefit you may have received which was based on a minimum contract term commitment, and/or
 - (c) A cease charge of £50 will be applied.
- 14.7 Following a suspension of services, we will only re-activate your services after you have paid the re-activation charges as may be advised at the time.
15. **Terminating the Agreement after the Services are Provided:**
- 15.1 **Termination at end of Contract Term Expiry:**
- (a) Either party may terminate this Agreement in respect of a Service by giving the other party not less than thirty (30) days' notice in writing to take effect at the end of either the first or any subsequent Minimum Term for the relevant Service. Where a Service has a notice period of greater than thirty (30) days then this amount of notice must be provided on that Service.
 - (b) If we give you notice to terminate under paragraph 15.1(a), you must pay rental and any charges for Calls made up to the end of the relevant Minimum Term. If you give us notice to terminate under paragraph 15.1(a), you must pay rental and any charges for Calls made up to the end of the relevant Minimum Term.
 - (c) If you fail to give us notice you must pay rental until thirty (30) days, or longer where a service has a greater notice period, after you have ceased to use our Service.
 - (d) Some Services may incur cease charges and these will be chargeable on termination unless otherwise agreed in writing.
- 15.2 **Termination before end of Contract Term Expiry:**
- If you want to terminate this Agreement in respect of a Service prior to the end of any Minimum Term for the relevant Service (other than because we have materially altered the conditions of this Agreement under paragraph 17.3) you must give us at least thirty (30) days' notice in writing and we will levy a cancellation charge calculated in accordance with the following:-
- (a) Each Service for which a monthly rental charge is payable - number of months remaining of Minimum Term for that Service multiplied by the monthly rental; and/or
 - (b) Pro-rata or full repayment of any subsidised installation or any other contribution to upfront or ongoing costs paid by us as described in paragraph 16.3 and in accordance with the terms of the subsidised installation, and/or
 - (c) The appropriate notice period charge for each Service, and/or

- (d) Repayment of any discount or other benefit you may have received which was based on a minimum contract term commitment, and/or
 - (e) A cease charge of £50 will be applied.
- 15.2.1 Should you fail to pay the early termination cancellation charges with 10 days (or 5 days for non-direct debit payment) of the date of invoice we reserve the right to suspend your Services.
- 15.3 If you have paid any rental in respect of a Service for a period after this Agreement has ended in respect of that Service, we will either repay it or off set towards any money you owe us.
- 15.4 You must pay all charges for the Services until the date on which we stop providing the Services to you and any applicable notice period.
- 15.5 We also have the right to terminate this Agreement or any of the Services immediately on notice to you in accordance with paragraph 14 and in these circumstances the thirty (30) day notice period will not apply.
- 15.6 **Additional Termination Provisions:**
- (a) The provisions of this paragraph 15.6 shall be without prejudice to the other provisions of this Agreement.
 - (b) At the end of this Agreement, you shall be responsible for arranging for the Services to be provided by another supplier ("the New Supplier").
 - (c) In the event that we terminate this Agreement pursuant to the provisions of paragraphs 14.1 or 14.2, the provision of Services shall end with immediate effect upon the service of notice to you, in accordance with the provisions of those paragraphs.
 - (d) If we terminate this Agreement pursuant to paragraph 15.1(a) or if you terminate this Agreement for any reason whatsoever, on receipt of your notice of termination we will apply Standard rates, applicable at the time, to all Services on your account to take effect following expiry of your notice period.
 - (e) Once you have served your minimum notice requirement we may serve you a minimum of 48 hours' notice to suspend your Services. Following suspension of your Services under this paragraph you may request that Services are reconnected and agree these will be subject to a reconnection charge and a new minimum contract period. We will notify you of this charge and contract period at the time.
 - (f) Should you serve your required notice and fail to move your Services to a new supplier then you accept and agree that you will remain liable for all charges at our Standard rates until such time that the Services are transferred to a new supplier.
- 15.7 Any service from Air-Talk Limited can be cancelled up to 14 calendar days after the day we accept your order. Any equipment that has already been sent out must be returned and you will only be charged for the service you used. However, you will also need to pay any activation fees, setup fees involved, even if they were advertised as free as a condition of you keeping the contract. Customers will also not receive any refund for any one-off fees, such as activation or set up services.
16. **Minimum Term, Minimum Spend and Contract:**
- Renewal:**
- 16.1 The Minimum Term will be as specified on the Service Agreement or Order Schedules for each Service, or as otherwise agreed with you in writing. In the event that the Minimum Term is not on the Service Agreement or Order Schedules then the Minimum Term will be 24 months from your Contract Commencement Date. The Minimum Term for any new installation will be at least twenty four (24) months or greater as may be specified in the Service Agreement or Order Form.
- 16.2 If this Agreement or any individual Services are terminated during the Minimum Term or any agreed term for the relevant Service(s) and you received free or subsidised installation or activation or any other contribution towards costs of any Services, Products, Equipment, Lines or third party termination charges as part of the Tariff or otherwise, then we reserve the right to impose a termination charge equal to the original cost divided by the number of the months in the relevant term, multiplied by the number of months remaining in the relevant term.
- 16.3 After the expiry of the initial and each subsequent Minimum Term, unless otherwise agreed with you in writing, your contract will automatically renew for a further period of 12 months. This automatic renewal reoccurs on each 12 month anniversary until the Agreement is terminated by either party by giving 30 days written notice to expire no earlier than the end of the then current Minimum Term in accordance with paragraph 15, subject to paragraph 14. Such automatic contract renewal will be on the same terms. Paragraph 16.3 shall not apply to you if:

- 1) Your business meets criteria as defined by Ofcom which would classify you as a residential or small business Customer and
- 2) Your agreement is dated no earlier than 25th May 2011 unless you have opted in to the automatic contract renewal at the point of placing your order by ticking the applicable box on the Service Agreement. For the avoidance of doubt, should you not tick this box and your company does not meet the Ofcom criteria which would classify your company as residential or small business then automatic contract renewal and paragraph 16.3 will apply.

17. **Changing the Agreement:**

17.1 **In general:**

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

17.2 **Conditions:**

We may change the terms and conditions of the Agreement (or any document comprising part of the Agreement, including the Tariff for any Service) at any time on giving you no less than one (1) months' notice. We will notify you of any changes on your monthly invoice and will post any changes or new terms and conditions on our website. You agree that if you continue to use the Services following receipt of such notice you will be bound by the new/revised Conditions. We reserve the right to pass on any increase in our costs for the Services we provide to you at any time by no less than one (1) months' notice, the only exception being that detailed in 9.8(b).

17.3 **Material Adverse Effect:**

Other than in the case of passing on cost increases, if a change has a material adverse effect on you or the Services we provide then the termination charges detailed in paragraph 16.1 will not be payable by you if you wish to terminate the Agreement or any of the Services before the end of the Minimum Term applicable to each of the Services. Termination charges for any subsidised installation as described in paragraph 16.2 will remain in effect and will be payable by you.

18. **Transferring the Agreement:**

You cannot, and cannot try to, assign or transfer (in whole or in part) this Agreement or the benefit of or the rights under this Agreement to anyone else. We may assign or transfer (in whole or in part) this Agreement to any Associated Company.

GENERAL CONDITIONS

19. **Giving notice:**

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

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

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

19.1 Any notices that we may send to you from time to time concerning your account, shall be sent to the main contact we have registered on your account. It is your responsibility to inform us of any changes to your nominated contact. We shall not be liable for any consequence of sending such notices to the incorrect contact unless due to our negligence.

20. **Entire Agreement:**

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

21. **Severance:**

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

22. **Reliance:**

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

23. **No Waiver:**

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

24. **Survival:**

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

25. **Third Party Rights:**

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

26. **Applicable Conditions**

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

26.2 These Conditions apply to the provision of all Services.

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

26.4 These Conditions in their entirety shall take precedence over any terms which may form your purchase order for any of the Services.

27. **Publicity:**

If you are a business, we may use your business name and logo in our marketing material. If you do not agree you must notify us accordingly in writing.