

Aptel Limited Terms and Conditions for Telecoms Services

Your agreement with us is made up of the following documents:

- (i) These Terms and Conditions for Telecoms Services
- (ii) Any Service Agreement
- (iii) The Order form and schedules
- (iv) The relevant tariffs for the services being provided to you
- (v) Any supplementary Terms and Conditions relating to specific products and services where applicable

These documents apply in precedence in reverse order to written above – Any Supplementary Terms override the Order Form, which overrides the Service Agreement, which overrides these Terms and Conditions.

1. Definitions

“Associated Company” means, as appropriate, the ultimate holding company of either party or any subsidiary thereof.

“BT” means British Telecommunications plc and subsidiaries including Openreach and BT Wholesale..

"Call" means a telephone or VoIP communication which is silent, spoken or visual on each Line, extension or SIP service that we agree to provide to you under this Agreement.

“Terms and Conditions” means these Terms and Conditions for Telecoms Services and any other conditions specific to other Services (“Supplementary Conditions”).

“Customer Support Process” means the provisioning and fault reporting and rectification process, including escalation paths.

"Line" means any connection to a telecommunications network supplied by us, whether direct or indirect.

"Minimum Term" means each minimum initial 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 or if not stated on the Service Agreement or order schedules, the Minimum Term will be 1 month (except for Ethernet/Leased Line services which will be 3 years), unless we have provided telephone hardware free of charge in which case the term will be free years, or such other period as may be notified to you in accordance with paragraph 19.2.

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

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

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

“Confirmation of Order” and “Service Agreement” mean the order document signed by you and/or an email from you accepting a quotation, to which these Terms and Conditions for Telecoms Services will apply, in each case detailing, amongst other things, the Services you wish to receive, the minimum period you are committing to receiving the Services for and the agreed initial and monthly recurring charges and which forms part of this Agreement.

“Order Acceptance” means our acceptance of the order you have [laced with us. Please note a contract has not been completed between us until you have received an Order Acceptance which will be by email or a formal Order Acceptance document.

“Tariff” means our tariff referred to in the Service Agreement and Order Schedules and as amended from time to time under paragraph 19.2 above. If no call tariff is detailed our standard Call Tariff available at www.Apptel.co.uk will apply.

“we”, “us”, “our” and “Apptel” means Apptel Ltd.

“you” and “your” means the customer we make this Agreement with. It includes any person who we reasonably believe is acting with the customer’s authority and knowledge, including the authority to sign or agree an order.

Supplementary Conditions

Supplementary Conditions relating to a specific Service apply to the following products:

- (a) Ethernet Services
- (b) Apptel Hosted Telephone Services
- (c) Maintenance Services
- (d) Telephone System Installation Services
- (e) Mobile Services

Where you take any of these Services under this Agreement then all relevant Supplementary Conditions shall be incorporated into this Agreement. We reserve the right to add additional Supplementary Conditions at any time.

Use of Apptel Telecommunications Services

2. Provision of the Services

2.1 The Services we supply to you are those Services which (a) you have ordered by email, telephone or are detailed on the Confirmation of Order/Service Agreement to which these Terms and Conditions apply, that we have accepted via an Order Acceptance or confirmation email. These may include (but are not limited to):

- The ability to make or receive a Call (telephone service);
- The provision of hosted voice services (Cloud Telephony)
- The provision of a Line or Lines for a rental charge (Telephone line rental service);
- The provision of Broadband Internet access (Broadband service);
- The provision of Ethernet (Lease Line services) including MPLS/Wide Area Networks/Private Networks
- The provision of Inbound telephony services (Inbound service);
- Any other Services which we may offer for sale from time to time.

For the avoidance of doubt, you may not resell the Services although they may be utilised by an Associated Company or tenant of yours for which use you shall remain fully liable.

2.1.1 Your agreement with us starts on the date on the signed Service Agreement and your contract commencement date (the “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 its own Minimum Term.

2.1.2 All Services allow access to UK emergency services and 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. For the avoidance of doubt, the contract remains valid regardless of whether we are able to install the services on the agreed date.

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 in accordance with paragraph 19.2. (b) We will make reasonable endeavours to inform you in advance if we impose any restrictions on your use of the broadband service. (c) Your use of the broadband service is entirely at your own risk. We will not be liable for any loss or damage arising from any virus, worm, 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 Outbound service: (a) All calls are to be routed over our chosen network. (b) Where you use a call forwarding feature on any of our Services, you agree and accept that such forwarded calls will be chargeable at the rate applicable on your tariff at the time. (including in the event of a fault or where using a call forward service as part of a disaster recovery plan).

2.6 Inbound service: (a) We reserve the right to apply a monthly charge of £5.00 per month for each inbound number which does not carry any traffic for any period of 3 consecutive months. (b) If an inbound number is withdrawn by Ofcom or PhonepayPlus or any of our suppliers for reasons beyond our control we reserve the right to recover the number(s) from you immediately. We will use our reasonable endeavours to supply you with another number which is acceptable to you. (d) 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) we cannot guarantee support for calls from mobile or payphone numbers in these cases there will be an additional charge; (iii) you accept that restrictions to the service may apply in certain countries; (iii) we are reliant on third parties for delivery of your billable call records so there may be a delay in us billing you for your international inbound calls, there will be no time limit on us billing you for these calls. In some cases calls will be logged in two parts and we may bill these parts in different months, but endeavour to do this within two concurrent months.

2.7 Hosted Voice Services (Cloud Telephony): If you have a Hosted Voice service or SIP Trunk service and move location, it is your responsibility to update your address details by notifying us of any change in address where the relevant equipment will be housed so that the correct information can be supplied for Emergency Authority purposes. We are not liable for any consequences of your failure to do this.

2.8 All Services:

2.8.1 All Services may be subject to Acceptable Use Policies and Fair Use Policies which at the time of application will be the latest version on www.Apptel.co.uk/legal. 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 Apptel Ltd 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 confirm that you have received and read our Call Recording Legal Requirements Guidance document and 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 Apptel Ltd 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. Should the call recording services fail for any period you agree that Apptel are not liable for any direct, indirect or consequential loss relating to this loss of data, and that our maximum liability is the Service Charge that we have charged over the period of the lost data.

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 six (6) months. However, if you continue to pay any recurring rental charges for those numbers, we shall not exercise this right.

3.3 We will make reasonable efforts to ensure any telephone numbers you are given are the correct numbers, however we cannot guarantee these numbers until they have been provided by our suppliers and are in use; you acknowledge it is your responsibility to test any numbers before publishing them and should you have to change numbers that you are responsible for any costs incurred, including but not limited to any re-printing or marketing costs.

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, subject to the numbers physically being able to be migrated to that provider.

4. Telephone books and directory enquiries

4.1 We will put your name, address and the telephone number(s) for the Services in the telephone book published by BT for your area and make your phone number available to BT's directory enquiries database, if requested to do so.

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

4.3 In relation to Hosted Voice/Cloud Telephony or SIP Trunk services, arrangements in relation to inclusion in BT's telephone book and directory enquiries database are available on request from us.

4.4 It is your responsibility to verify that all directory entries are correct and remain correct. We accept no liability for any errors nor are we liable for any costs, financial losses or disputes that may arise from any omission or inaccuracy in the entry. Please note that any historic costs relating to previous agreements you may have made for chargeable phone book entries may be invoiced through Apptel if they have not been paid for previously, and you understand and agree that we will be acting to collect any outstanding monies owed for these services, and you are liable for these charges.

5. Changes and interruptions to the Services

5.1 We may have to do some things that could affect the Services. Some of these things are listed in paragraph 5.2. If we have to interrupt the Services we will restore them as quickly as we reasonably can.

5.2 Occasionally we may have to: (a) change the code or phone number or the technical specification of the Services for operational or regulatory reasons (such as the addition of an extra digit into a dialling code or individual number); (b) interrupt the Services for operational reasons or because of an emergency;

(c) give you instructions that we believe are necessary for health or safety or to maintain the quality of the Services that we supply to you or to our other customers.

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

5.4 We cannot guarantee and do not warrant that the Services will be free of interruptions or will be fault-free and we will not be liable for any loss or damages should the Services be interrupted from time to time. You accept that there may also be degradations of the quality of the Service from time to time due to matters beyond our control (see clause 15 below), and that we will not be liable for any loss or damages should the quality of the Service we provide be affected by such matters.

EQUIPMENT

6. Equipment

6.1. As far as practically possible, we will use reasonable endeavours so that you receive the benefit of any manufacturers' warranties pertaining to equipment supplied by us for use with the Services.

7. Sale Equipment

7.1 The description and specification of the Sale Equipment shall be those set out in the Service Agreement, Order Form or product service descriptions and may be amended from time to time.

7.2 We will arrange to deliver the Sale Equipment to your delivery address, or agreed 3rd party address, as specified in the Service Agreement and Order Schedules, and will use reasonable endeavours to deliver the equipment at the agreed time, but will not be liable for any delay caused by any delivery company we may use.

7.3 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.

7.4 You will not own the Sale Equipment until you have paid us in full for the Sale Equipment and we reserve the right to require you to return to us, or for us to collect (at your cost), the Sale Equipment if you do not pay us in full for the Sale Equipment by the due date for payment (in accordance with paragraph 11 below). Subject to the foregoing, you will be entitled to continue to use the Sale Equipment after expiry or termination of this Agreement.

7.5 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.

8. Rental Equipment

8.1 We will at all times own all Rental Equipment supplied to you. You will not let, sell, charge, assign, sub-license or allow a third party to use the Rental Equipment nor remove any labels, and shall not prejudice our rights in the Rental Equipment in any way. We may replace the Rental Equipment from time to time either with your prior consent or provided that the replacement Rental Equipment is of a specification that is at least equal to the Rental Equipment originally supplied and such change does not materially disrupt the provision of the Services.

8.2 Subject to the other terms of this paragraph 8, we (or our authorised representative) shall, during our usual working hours:

8.2.1 where necessary install the Rental Equipment at your premises at a time and date agreed with you; and

8.2.2 use our reasonable endeavours to repair any faults to the Rental Equipment in accordance with our standard procedures (which are available on request).

8.3 It is your responsibility to look after the Rental Equipment that is in your possession or custody and you agree to pay for the Rental Equipment to be replaced or repaired if it is lost, stolen or damaged.

8.4 You will notify us promptly of any faults which occur, any repairs which become necessary, and of any loss, theft or damage to the Rental Equipment.

8.5 You agree that you will only use the Rental Equipment in conjunction with the relevant Services and shall comply with our reasonable instructions in relation to its use.

8.6 You shall be responsible for maintaining adequate cover in place to insure 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 licenses, consents and approvals required for the installation and use of the Rental Equipment.

8.7 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 Rental Equipment without our 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 Rental Equipment that is carried out by any other person (other than our employees or agents). You agree to indemnify us for all losses, damages and expenses that are brought against or incurred by us, arising as a result of the same.

8.8 On expiry or termination of the Agreement or the relevant Service, all Rental Equipment must be returned to us in reasonable condition, subject to reasonable wear and tear. If you fail to return or make available for collection the Rental 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 Rental Equipment less any depreciation together with any costs reasonably incurred by us.

8.9 In the event that you return Rental Equipment to us and it is not received by us, in the absence of reasonable evidence that the Rental Equipment has been delivered to us you accept that you shall remain liable for the Rental Equipment.

YOUR INFORMATION

9. 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.

10. Data protection and use of your information

10.1 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

102. 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 suppliers and/or partners.

10.2 We would like to use the information we have about you and your use of the Services (this includes information about your bill size, the numbers you call and the times you call) to inform you about the products, services, pricing packages and special offers which we provide and which we believe may be of particular interest to you. By accepting these Conditions you consent to our sending you such information.

However, if you do not wish to receive this information, please advise us, by writing to us at our business address or by email.

10.3 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 at the address set out in paragraph 9.2.

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

10.5 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 representative with whom you may have had initial discussions and you hereby confirm to us that we may rely on that information.

YOUR OBLIGATIONS

11. Paying our charges for the Services

11.1 Charges

You must pay the charges for the Services according to the applicable Tariff(s). This applies whether you or someone else use the Services and whether the Services are used with your full knowledge and consent or otherwise. (This means by way of example but not by way of limitation that you are liable to pay for all calls made as a result of "rogue diallers", unbarred premium rate numbers and calls made by any third party gaining unauthorised access to your telephony systems (phone hackers)). We may vary the charges set out in the Tariff as explained in paragraph 20.2.

11.2 Installation and Connection charges

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

11.3 Equipment

You must pay the charges for any Sale Equipment that we supply to you. We will invoice you for the Sale Equipment in the next invoice that we send to you (in accordance with paragraph 10.4) following the date on which we dispatch the Sale Equipment to you. You shall also pay the rental charges for any Rental Equipment that we supply to you, and we shall invoice you for this on a monthly basis in accordance with paragraph 11.4.

11.4 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 11.7. We will send all invoices and other correspondence to the address set out in the Order/Service Agreement or otherwise the address you ask us to. We will show on the invoice which charges are payable in advance or in arrears, as referred to in paragraph 11.5. We will include all charges on the next invoice where possible, and in any event as soon as we can.

11.4.1 Invoices shall be deemed to have been accepted by you if you do not notify us in writing of any query or dispute in respect of any invoice, or any part of an invoice within sixty (60) days of the date of the invoice, identifying the service within the disputed invoice and the reasons why you are challenging the charges. We shall both negotiate in good faith as soon as reasonably practicable to resolve the dispute. If you do fail to notify us of any dispute within the sixty (60) day period, the full amount of the invoice shall be payable. Payment for all sums not in dispute shall be made on the due date.

11.5 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 rental charges from the date the Service is made available for use and/or when we start being charged by our ultimate supplier, whichever is earlier (regardless of when you actually commence using the service). We will usually ask you to pay the rental in advance and your first invoice will include both the current month's rental, 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.

11.6 Deposits.

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 11.7. Deposits will be held for the length of the minimum term of the contract and then returned, unless agreed separately.

11.7 Terms of payment

Our standard credit terms are payment within fourteen (14) days of date of invoice by direct debit and these are the credit terms which will apply to this Agreement unless we have agreed otherwise in writing. You must pay all charges and rental within the credit terms which we have agreed and any advance payments and deposits when we ask for them. We reserve the right to apply a nominal monthly charge of £5.00 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.

11.8 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 according to the banding used by BT. You hereby acknowledge and agree that there may be occasions where a call type moves from one band to another band or BT change their charging structure and subsequently the charges for some of these call types may change, we will apply this change from the 1st of the month following the change and you acknowledge that we may not always be able to give you notice of such changes. (c) Where you take any bundled service you agree to pay for all chargeable items which are excluded from or exceed the allowance of the bundle. (d) Unless otherwise agreed with you in writing all call costs in our Tariff are displayed in pence per minute. All billing is per second, call durations are measured up to the whole second. (e) Inbound bundles include calls which terminate to landlines only, unless specified otherwise in writing. Should you terminate your calls to a mobile, a non-geographic or an international number then 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, regrades, 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. (g) inclusive calls on any hosted VoIP or other service include local, national, and standard UK mobile calls, plus an allowance for calls to 03 numbers. All other calls, including calls commencing 1xx, 084xx, 087xx, 09xx and 07xx personal numbers are not included within the inclusive call allowance.

11.9 Please note all quoted international call rates apply only to standard landline and mobile networks within a specified country. Any Premium, NGN, personal, high charge mobile networks and high charge landline networks within a country will be charged at higher rates. These rates are liable to change on a regular basis without notice and may be significantly higher than the quoted rate for a call to a standard geographic destination. Please also note that we reserve the right to change international calls should our cost tariff increase.

11.10 The Charges shall be calculated by reference to data recorded or logged by Apptel and not by reference to any data recorded or logged by the Customer, including by call management systems etc..

11.11 Finance and Credit

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

11.11.2 It is agreed that where we approach a finance provider to arrange finance for the purchase of Equipment then we are acting as an agent for the Customer and not for the finance provider.

11.11.3 In the event that we are unable to obtain finance on the terms originally proposed or on other terms acceptable to you then we shall return any deposit received from you without further liability to you. Please note third party indemnities may be required by the finance provider.

11.11.4 After delivery and installation (where applicable) is completed any failure by you to complete the finance agreement documentation and/or commence payment in accordance with the terms of the finance agreement shall render you liable to pay to us the full value of the order (plus VAT) within seven (7) days of presentation of an invoice.

11.12 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.

11.13 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.

11.14 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.

11.15 Trial Periods

Where you take a product or service on a trial basis for a full, reduced or zero charge for a fixed period, unless otherwise advised to you in writing, you need to give us notice in writing if you wish to cancel the Service at the end of the trial. If you fail to give us notice then we will automatically invoice you for the product or service at the end of the trial for the remainder of the agreed contract term. For the avoidance of doubt, unless otherwise agreed in writing you will be liable for all usage and call charges during the trial

period. Should you wish to cancel after the trial then you agree to return, at your own cost, any equipment to us in full working order.

11.16 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.

11.17 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.

11.18 Security and Data back up

You are responsible for the security of your data and your use of the Services. You shall take all reasonable steps to prevent any loss of or damage to data, or any unauthorised access to, or use of, the Services including but not limited to:

11.18.1 ensuring all passwords are in an appropriately secure format and properly protected against loss or unauthorised access;

11.18.2 taking regular back-ups of all of your data used with or stored as part of the Services,

11.18.3 employing appropriate security devices including virus checking software; and

11.18.4 having appropriate disaster recovery processes in place.

11.18.5 Where you are or become aware of any matters which you know or ought reasonably to be expected to know constitute a threat to the security of the Services, you will promptly notify us of such matters.

12. Your other responsibilities

12.1 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.

12.2 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, 8am 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, or Wayleave, 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. (d) We may not always be able to let you know in advance when an engineering is arriving on site, especially with regard to Openreach engineering staff.

12.3 Misuse of the Services

Nobody must use the Services: (a) to make abusive, defamatory, obscene, offensive, indecent, menacing, disruptive, nuisance or hoax Calls, emails or other communications or Calls, emails or other communications in breach of privacy or any other rights; (b) to send, knowingly receive, upload, display, download, use or re-use material which is abusive, defamatory, obscene, offensive, indecent or menacing or in breach of copyright, privacy or any other rights; (c) to send and receive data in such a way or in such amount so as to adversely affect the network (or any part of it) which underpins any Service or to

adversely affect our other customers or customers of our suppliers; (d) for the carrying out of fraud, an unlawful activity or a criminal offence or in a way which does not comply with the terms of any legislation; (e) in a way that does not comply with any instructions given by us to you under paragraph 12.1; (f) to obtain access, through whatever means, to restricted areas of the underlying network; or (g) in a way which (in our reasonable opinion) brings our name into disrepute, or which places us in breach of our legal or regulatory obligations, and you must make sure that this does not happen. The action we can take if this happens is explained in paragraph 16. 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.

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

12.5 Line rentals

When we provide your Line rentals, we will route your Calls through our chosen network. Where your lines are transferred to us on a like for like basis, you agree to pay for any additional services which may exist on your lines that you may not have made us aware of at the time of ordering regardless of when these services are billed to us by the underlying supplier (including but not limited to telephone book entries that may be billed to us annually or up to 5 years in arrears by BT).

12.6 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).

12.7 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, early termination charges or disputes that may arise from any such breach of contract or your failure to give the correct notice.

12.8 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 IP phones, switches and network infrastructure. In accordance with paragraph 14.2, we will not be liable for any loss or damage (financial or otherwise) where you fail to do so.

12.9 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 14.2, we will not be liable for any loss or damage (financial or otherwise) where you fail to do so.

12.10 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.

12.11 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

13. Repairing faults

13.1 We will investigate any fault that is reported to us according to our standard process for the Service in question (which are available on request and included within our Service Level Agreement). 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.

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

13.3 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. This includes any missed appointment charges incurred by Openreach engineers or where they have been unable to gain access to your premises, regardless of whether we have informed you of their expected attendance at your site. Please note the Openreach missed appointment charge is currently £140.00, but is liable to change. 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.

13.4 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.

13.5 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, network congestion or quality of service (QoS). We shall not be liable to you in respect to any quality or availability issues with such a Service.

13.6 Where a fault reported is deemed to be caused by a router provided by Apptel Ltd, we will replace this as long as the current router is within its warranty period. We will ship a new router to you as soon as possible, pre-configured with the username and password and any IP Addressing requested on the original order. At this point a charge for the new router will be raised and only credited back on receipt of the original faulty router. If the router is outside of the 12 month warranty period, the new router is chargeable and will show on the next invoice.

13.7 Where using Cloud based services you acknowledge that call quality is dependant on the Internet connectivity, your local area network and that Apptel are not responsible for these items or the call quality where calls are routed over non-Apptel infrastructure or shared services. We may recommend installing a separate voice network including Internet connection, cabling and PoE switch to rectify call quality problems and that these items will be entirely at your expense.

LIMITATION OF LIABILITY

14. Liability

14.1 Unless otherwise stated in this Contract we make no warranty in respect of the supply of Equipment and/or Services and all other terms, conditions and warranties which may otherwise be implied into this Contract by statute, common law, custom, trade usage, common law, custom, trade usage or course of dealings between the parties are hereby excluded to the fullest extent legally possible.

14.2 Subject to condition 14.5, in no circumstances shall our liability to you arising under or in connection with this Contract (whether in contract, tort (including without limitation negligence) misrepresentation, breach of statutory duty or otherwise) in any Contract Year exceed 110% of the Price and/or Charges paid in the twelve months prior to the date on which a claim arose in respect of the Equipment or any of the Services to which the claim relates.

14.3 Subject to condition 14.5, under no circumstances shall we be liable in any event under or in connection with the Contract and whether in contract, tort (including negligence) misrepresentation, breach of statutory duty or otherwise for any loss of revenue; loss of profits; loss of business; loss of contracts; loss of, damage to, or corruption of data; loss of anticipated savings; or indirect, consequential or special losses; whether or not we knew or ought to have known that such losses or damages might be incurred.

14.4 Neither party shall be liable to the other party for any breach of contract, tort (including but not limited to negligence) misrepresentation, breach of statutory duty or otherwise caused by any reason outside the reasonable control or responsibility of that party including, without limitation, in respect of Fixed Network Services supplied by the Company, the failure of any Telecommunications supplier or Carrier to provide network capacity and/or connectivity (or any element thereof) to us for which we are reliant for the purposes of the Contract, any act of God, terrorist attacks, inclement weather, accidental damage, vandalism, failure or shortage of power supplies, flood, drought, lightning or fire, strike, lock-out, trade dispute or labour disturbance, any act or omission of Government, highways authorities, or other competent authorities

14.5 Nothing in these Conditions excludes or restricts either party's liability for: 14.5.1 death or personal injury resulting from that party's negligence or its employees' negligence (while acting in the course of their employment); 14.5.2 any fraud, fraudulent misrepresentation or fraudulent misstatement (specifically excluding any fraudulent use of the services, the charges for which remain your responsibility); 14.5.3 any indemnity given under the Contract; and/or 14.5.4 anything for which the parties cannot at law limit or exclude their liability.

14.6 Subject to condition 14.5, you agree that any cause of action that you may have against us (including affiliates, directors, officers, agents, consultants and employees) must commence within two (2) years after the cause of action arose, otherwise, your cause of action is permanently barred.

14.7 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.

14.8 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. The cost of any remedial action to correct any such errors remains your responsibility.

14.9 The provisions of this paragraph 14 shall continue to apply notwithstanding termination of this Agreement.

15. 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, the failure of any Telecommunications supplier or Carrier to provide services, network capacity and/or connectivity (or any element thereof) to us for which we are reliant for the purposes of the Contract, 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

16. Breach of the Agreement

16.1 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 12.3. 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.

16.2 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.

16.3 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.

16.4 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 12.3.

16.5 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.

16.6 If this Agreement or any of the Services are terminated in accordance with this paragraph 16 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 subsidised charges or any other contribution we may have made towards any other costs, as described in paragraph 19.2; and/or (c) Repayment of any discount or other benefit you may have received which was based on a minimum contract term commitment, and/or (d) Any applicable cease charges as may be detailed in the tariff.

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

17. Cancelling the Services

17.1 Without prejudice to any specific termination rights set out elsewhere in these Terms and Conditions, you shall not be entitled (once an order has been accepted by us) to change or cancel an order without our agreement.

18. Terminating the Agreement after the Services are provided

18.1 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 after any Minimum Term specified 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 18.1(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 18.1(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 as detailed in the Tariff and these will be chargeable on termination unless otherwise agreed in writing.

18.2 Termination before end of Contract Term Expiry

If you want to terminate this Agreement after the date on the Signed Service 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 20.3) 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 19.3 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) Any applicable cease charges as may be detailed in the Tariff.

18.2.1 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.

18.3 We also have the right to terminate this Agreement or any of the Services immediately on notice to you in accordance with paragraph 16 and in these circumstances the thirty (30) day notice period will not apply.

18.6 Additional Termination Provisions (a) The provisions of this paragraph 18.6 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 16.1 or 16.2, 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) 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 as agreed until such time that the Services are transferred to a new supplier.

19. Minimum Term and Contract Renewal

19.1 The Minimum Term will be as specified on the Service Agreement, Order Schedules or Tariff(s) for each Service, or as otherwise agreed with you in writing. In the event that the Minimum Term is not on the Service Agreement or Order Schedules then the Minimum Term will be 1 month from your Contract Commencement Date, except in the case of Ethernet Leased Line services and services including free of charge VoIP phones where the minimum period will be three years..

19.2 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.

19.3 After the expiry of the initial Minimum Term, you will move onto a 1 month rolling contract and will be able to terminate any service with 1 months notice, subject to Paragraph 18.

20. Changing the Agreement

20.1 In general If you ask us to make any change to the Services or Rental Equipment we will ask you to confirm your request in writing. No action will be taken by us to carry out the change until we have received your written confirmation. If we agree to a change, this Agreement will be changed when we confirm the change to you in writing. We may accept some changes by email or telephone, in which case the Terms and Conditions of this agreement will still apply as if a written order had been placed.

20.2 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) month's notice. We will notify you of any changes on your monthly invoice and will post any changes or new terms and conditions on www.Apptel.co.uk/legal. 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) month's notice, the only exceptions to this notice being those detailed in 11.8(b) and 11.9.

20.3 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 18.2 will not be payable by you if you wish to terminate the Agreement or any of the Services before the end of the Minimum Term applicable to each of the Services. Termination charges for any subsidised installation as described in paragraph 18.2(c), 18.2(e) and 18.2(f) will remain in effect and will be payable by you.

21. 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, without our express consent which will not be unreasonably withheld. We may assign or transfer (in whole or in part) this Agreement to any Associated Company.

GENERAL CONDITIONS

22. Giving notice

Any notice given under this Agreement must be delivered by email, hand or sent by email or prepaid post as follows: (a) to us at the address or email address shown on the Service Agreement or on your last invoice, or at any other address or email address we give you; (b) to you at the address you have asked us to send invoices to or to the email address you have given us.

22.1 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.

23. Entire Agreement

The Agreement (including these Terms and 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.

24. 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.

25. 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.

26. 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.

27. Survival

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

28. 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.

29. Governing Law and Jurisdiction

29.1 Subject to paragraph 29.2, this Agreement shall be governed by and construed in accordance with the laws of England and the parties irrevocably submit to the exclusive jurisdiction of the English courts.

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

30. 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.