

Mobile Terms & Conditions

These Terms and Conditions of Business are between Blu Sky Group Limited and you (from now on referred to as ‘the customer’) and are deemed to be accepted by virtue of a signed purchase order.

1. Warranties

1.1 Handset refers to any new mobile phone. All handsets will arrive boxed and contain a battery charger. In most cases, the sim card (if applicable) will have been inserted for ease of use.

1.2 The customer acknowledges that Blu Sky Group Limited is not the manufacturer of the equipment and accordingly the warranty of the equipment lies with the manufacturer.

1.3 If the equipment is returned to the offices of Blu Sky Group Limited within 14 days then Blu Sky Group Limited may at its discretion a) repair the equipment, b) replace the equipment, c) substitute the equipment or credit the customer for the equipment. The original equipment must not, however;

a) Have been altered in any way.

b) Been improperly stored or connected to a network service

c) Be returned if sold on a no warranty basis.

d) Have any marks, scratches to warrant the product not new in any way.

e) Have damaged packaging.

1.3 All new handsets supplied by Blu Sky Group Limited be supplied with a full 12-month manufacturers warranty and in some cases, 24 months; the customer will be notified of the warranty period.

1.4 A temporary replacement may be supplied to business customers at the discretion of Blu Sky Group Limited. These handsets will be in good working order and Blu Sky Group Limited requires the handsets to be returned promptly and again in good working order when original handsets are returned from warranty claims.

Any replacement handsets returned damaged will result in repair or replacement costs being charged to the customer.

1.5 Failure to return a loan handset when a new/repaired handset has been returned to the customer will result in an administration charge of £50 per handset.

1.6 Dispatch

1.6.1 Whenever possible Blu Sky Group Limited will endeavour to send all hardware and sim cards 24 hrs prior to connection to the agreed business address.

1.6.2 Once goods have been dispatched they will arrive the next working day unless agreed otherwise.

1.6.3 Upon delivery, all items will require a signature confirming receipt of the goods in the correct condition. Any goods that do not arrive in the correct condition, Blu Sky Group Limited must be informed the same day. Any undeliverable goods will be returned to the trading offices of Blu Sky Group Limited no less than 7 working days after the first delivery attempt unless otherwise agreed by the customer and/or carrier.

1.6.4 Once notified of delivery by our couriers Blu Sky Group Limited accepts no responsibility for loss and damage to goods.

2. Accessories/handsets

2.1 All agreed accessories will be included with new handsets wherever possible. Any accessories that are not available immediately will be sent by courier within 28 days unless agreed otherwise.

2.2 Charges for accessories/handsets may be applicable. Payments due will be expected within 30 days of dispatch and will be invoiced by Blu Sky Group Limited.

2.3 Once accessories/handsets have been agreed they cannot be exchanged, unless faulty.

2.4 All accessories/handsets will remain the property of Blu Sky Group Limited until payment is received in full.

3. New Connections/Upgrades

3.1 By agreeing to a new connection or upgrades you, the customer (from now on referred to as 'the customer') agrees to be bound by the networks terms and conditions for the minimum contractual period.

4. Cancellation and Returns Policy

4.1 Subject to the remaining provisions of clause 4, Blu Sky Group Limited may act in its sole discretion, provide the customer with a subsidy as a result of the customer entering into the airtime agreement with the airtime provider.

4.2 In the event that Blu Sky Group Limited does provide the customer with a subsidy this may be provided to the customer at the sole discretion of Blu Sky Group Limited, using any of the following methods set out below or any combination thereof:

4.2.1 Deducting this from the value of the equipment or the services which the customer orders from Blu Sky Group Limited

4.2.2 The payment of monies (representing the amount of the subsidy) to the customer and such monies shall be paid to the customer in full after the expiry of 6 months from the connection date where the applicable minimum term is 24 months

4.2.3 Using such amount to discharge any termination charges levied upon the customer by the relevant network/service provider for terminating their previous airtime agreement subject to Blu Sky Group Limited being provided with a copy of the relevant invoice from such network/airtime provider.

4.3 Any subsidy payable by Blu Sky Group Limited within 30 days from the date that the customer presents an invoice to Blu Sky Group Limited (no invoice shall be necessary where the subsidy is being deducted from the price of the equipment/services) will be paid provided that:

4.3.1 At all times the connection is still active on the relevant payment date that the subsidy (or instalment payment of the subsidy) is due,

4.3.2 Where the invoice is payable in instalments or after a prescribed period of time, the appropriate trigger date has passed.

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

4.3.4 Where the;

a) Invoice is for the termination charges pursuant to clause 4.2.3 this amount is invoiced within 3 months from the date of the connection and or;

b) Invoice is for the payment of monies pursuant to clause 4.2.2, this amount is for the payment of monies pursuant to clause 4.2.2, this amount is invoiced during the minimum term; and or

c) Amount claimed is being deducted from the price of the equipment/services ordered by the customer pursuant to clause 4.2.1, this amount is claimed during the minimum term, and in the event that the customer fails to invoice/claim the subsidy within the timescales set out in clause 4.3.4 (a) to (c) (inclusive) then the customers right to the subsidy shall cease.

4.4 The customer acknowledges that;

4.4.1 The payment of the subsidy is conditional upon;

a) The customer maintaining each connection for the minimum term and

b) The customer not downward migrating the tariff or any connection for the minimum term unless with the formal written consent of Blu Sky Group Limited

c) Any such conditions as are notified by Blu Sky Group Limited from time to time

4.4.2 Blu Sky Group Limited will provide the subsidy prior to the satisfaction of the conditions set out in clause 4.4.1 and hence the need for clause 4.5

4.5 Blu Sky Group Limited shall be entitled to reclaim from the customer the subsidy (or such proportion of the subsidy) already paid to the customer (or without such amount from any subsidy or instalment of a subsidy to be paid to the customer) in the event that;

4.5.1 A connection is for whatever reason disconnected prior to the expiry of the minimum term; or

4.5.2 A connection is for whatever reason downward migrated during the minimum term; or

4.5.3 The relevant network/service provider (for whatever reason) reclaims or withholds in full or in part from Blu Sky Group Limited any of connections commission/connection advance by the network/service provider in respect of that connection, and the proportion of the subsidy that Blu Sky Group Limited shall be entitled to reclaim from the customer shall be the monthly subsidy amount for each month (and such pro-rata amount for each incomplete month) of the balance of the minimum term which is unexpired at the date of disconnection or the downward migration.

4.6 In the event that a customer cancels an order prior to connection following a purchase order is sent, disconnects connections prior to the expiry of the minimum term (without consent from Blu Sky Group Limited) or a connection is downward migrated during the minimum term without written consent from Blu Sky Group Limited), then Blu Sky Group Limited shall be entitled to charge the customer an

administration charge of £225 per connection. This £225 will also be applied to each connection if the customer upgrades with another supplier but on the same mobile network within the minimum contractual term agreed. For the avoidance of doubt if you are a business customer there is no 14-day cooling-off period, unlike consumer regulations.

4.7 Any such sum reclaimed (or withheld) pursuant to clause 4.5 shall be invoiced to the customer and such sum payable (unless withheld) within 5 days of the date of Blu Sky Group Limited invoice.

4.8 The customer will use their best endeavours to assist Blu Sky Group Limited in obtaining PAC codes if necessary from their existing supplier/network. Should Blu Sky Group Limited not receive the PAC codes to complete the porting process for whatever reason, including change of mind, the customer agrees to pay Blu Sky Group Limited the sum of £225 per connection not completed.

5. Charges and payment

5.1 The price for Goods and Services shall be the price set out in the Order and shall be exclusive of all costs and charges of packaging, insurance, transport of any Goods or Supplier's Materials.

5.2 The Supplier reserves the right to increase the charges for the Goods and/or Services at any time by giving notice to the Customer provided that the Supplier shall not be entitled to increase the charges more than once in any six month period.

5.3 The Supplier reserves the right to increase the price if the delivery and/or Installation services takes more than one visit to complete.

5.4 The Supplier reserves the right to apply a minimum monthly threshold on call spend of at least £10.00 per Customer account (or such other sum as notified to the Customer by the Supplier in writing from time to time), to keep the account operating at a viable level.

5.5 All invoices issued by the Supplier to the Customer are payable within 30 days of the date of the invoice.

5.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of value added tax chargeable from time to time (VAT). Where any taxable supply for

VAT purposes

is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Services or Goods at the same time as payment is due for the supply of the Services or Goods.

5.7 The Service Rental is payable from the Commencement Date.

5.8 If the Customer fails to make a payment due to the Supplier under the Contract by the due date, then, without limiting the Supplier's remedies under clause 13 (Termination), the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause 8.8 will accrue each day at 4% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.

5.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).

6.0 Privacy Policy

6.1 The information the customer provides may be used for credit checking by the networks to assess the customers' creditworthiness. By placing an order, the customer has stated their acceptance and agreement with this. We collect personal details to pass on to mobile phone networks and service providers only for connection and upgrade purposes. All information is collected in accordance with the data protection act 1998. We also reserve the right to refuse the fulfilment of any order in the unsatisfactory verification of the customer's details and order. The customer can also check the details we hold by writing to us at our registered address. If the customer finds any inaccuracy we will delete and/or amend immediately. The information we hold will be held securely in accordance of our security policy and the law. We do however reserve the right to pass on any information to any relevant authority such as the police or credit agencies in the interest of fraud and crime prevention and to other companies linked to Blu Sky

Group Limited. If the customer has any questions concerning our privacy policy please write to us at our registered address.

7 Responsibilities

Blu Sky Group Limited will take all necessary steps to ensure that the airtime agreements are both the right and best solution the customer. Blu Sky Group Limited will not accept any responsibility for network service, network failure or network performance but will act diligently and in the customers best interest at all times, and work with the customer to get the very best value and service. Blu Sky Group Limited will act on the customers' behalf whilst acting within the terms and conditions of the networks at all times.

8 Contract returns Blu Sky Group Limited, Riverside Mountbatten Way, Congleton CW12 1DY Registered in England & Wales Co. No. 12625612

8.1 The customer must sign and return the original network contract for new connections and resigns within 2 weeks in order to receive any cashback or network buy out payments agreed with Blu Sky Group Limited. All handsets and accessories provided will remain the sole property of Blu Sky Group Limited until the original network contract is signed and returned.

9 General

9.1 Blu Sky Group Limited reserves the right to record some calls for network verification, training and query resolution purposes. These calls are retained for a minimum of 90 days.

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Hosted Terms & Conditions

The Customer's attention is particularly drawn to the provisions of clause 12 (Limitation of

liability).

1. Interpretation

The following definitions and rules of interpretation apply in these Conditions.

1.1 Definitions:

Additional Charges: means Charges which may be payable (in addition to the Annual Support

charge) for additional services

Annual Support Charge: the support charge for the Maintenance Services as stated in the

Services Specification.

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in

London are open for business.

Calls: a video, signal, message or other communication that is silent, spoken or visual

Charges: the charges payable by the Customer to the Supplier pursuant to these terms and

conditions.

Carrier: the relevant third party public telecommunications operator or third party network Service

Provider

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause

16.8.

Contract: the contract between the Supplier and the Customer for the supply of Goods and/or

Services in accordance with these Conditions.

Control: has the meaning given in section 1124 of the Corporation Tax Act 2010, and the

expression change of control shall be construed accordingly.

Controller, processor, data subject, personal data, personal data breach, processing and

appropriate technical measures: as defined in the Data Protection Legislation.

Customer: the person or firm who purchases the Goods and/or Services from the Supplier.

Customer Materials: all materials, equipment, documents and other property belonging to the

Customer which is to be used in connection with the Services.

Data Protection Legislation: the UK Data Protection Legislation and any other European Union

legislation relating to personal data and all other legislation and regulatory requirements in force

from time to time which apply to a party relating to the use of personal data (including, without

limitation, the privacy of electronic communications); and the guidance and codes of practice

issued by the relevant data protection or supervisory authority and applicable to a party.²

Deliverables: any deliverables set out in the Order produced by the Supplier for the Customer.

Delivery Location: has the meaning given in clause 3.1.

Duration: the duration of the Contract as set out in the Service Specification.

Early Termination Charges: the charge calculated by totalling the Call and Service Rental

charges that the Customer would have paid for had the Contract not been before the expiry of the

Minimum Term, based on the average charges over the previous six months invoices issued prior

to the date of such early termination.

Equipment: any equipment or products supplied by the Supplier or any third party on behalf the

Supplier, to the Customer in connection with the Services.

Fixed Network Services: means the network services supplied by the Supplier to the Customer

as detailed in the Service Specification.

Force Majeure Event: has the meaning given to it in clause 15.

Goods: the goods (or any part of them) set out in the Order including (but not limited to) any

Equipment which forms part of the Order.

Hosted Voice: a hosted VOIP service providing voice and video, and collaboration facilities

allowing the Customer to use the Customer's network to access and utilise the features and

functions delivered by the service. Users are able to make and receive Calls to other users as

well as access the public switched telephone, mobile and international networks.

Installation: the physical installation of the Equipment at the Customer's premises.

Intellectual Property Rights: patents, utility models, rights to inventions, copyright and

neighbouring and related rights, moral rights, trade marks and service marks, business names

and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off

or unfair competition, rights in designs, rights in computer software, database rights, rights to use,

and protect the confidentiality of, confidential information (including know-how and trade secrets),

and all other intellectual property rights, in each case whether registered or unregistered and

including all applications and rights to apply for and be granted, renewals or extensions of, and

rights to claim priority from, such rights and all similar or equivalent rights or forms of protection

which subsist or will subsist now or in the future in any part of the world.

LAN: the Customer's local area network including but not limited to structured cabling, LAN

switches and firewalls.

Maintenance Services: the maintenance services to be supplied by the Supplier to the Customer

as detailed in the Service Specification.

Minimum Term: the minimum term of the Contract as stated on the Service Specification.3

Order: the Customer's order for the supply of Goods and/or Services, as set out in the

Customer's purchase order form.

Services: the services, including the Deliverables, to be supplied by the Supplier to the Customer

as set out in the Service Specification.

Service Provider: a third party supplying Services and/or Equipment to the Supplier which the

Supplier then supplies to the Customer or Services/Equipment provided by the third party directly

to the Customer on behalf of the Supplier.

Service Rental: means the line rental, access fee or recurring charge paid by the Customer to

access any service or product supplied by the Supplier.

Service Specification: the description or specification for the Services provided by the Supplier

to the Customer.

Supplier: Blu Sky Group Limited a company registered in England and Wales with company

registration number 12625612 and whose registered office is at Riverside Mountbatten Way,

Congleton CW12 1DY.

Supplier Materials: has the meaning given in clause 7.1(u).

UK Data Protection Legislation: all applicable data protection and privacy legislation in force

from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the

Data Protection Act 2018; the Privacy and Electronic Communications Directive (2002/58/EC) (as

updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations

2003 (SI 2003/2426) as amended.

VOIP: Voice over Internet Protocol.

WAN: the wide area network which includes the Access Service or any other network through

which the Customer connects to the Service/s.

1.2 Interpretation:

(a) A person includes a natural person, corporate or unincorporated body (whether or not having

separate legal personality).

(b) A reference to a party includes its personal representatives, successors and permitted assigns.

(c) A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A

reference to a statute or statutory provision includes all subordinate legislation made under that

statute or statutory provision.

(d) Any words following the terms including, include, in particular, for example or any similar

expression shall be construed as illustrative and shall not limit the sense of the words,

description, definition, phrase or term preceding those terms.⁴

(e) A reference to writing or written includes fax and email.

2. Basis of contract

2.1 The Order constitutes an offer by the Customer to purchase Goods and/or Services in

accordance with these Conditions.

2.2 The Order shall only be deemed to be accepted when the Supplier issues written acceptance of

the Order at which point and on which date the Contract shall come into existence

(Commencement Date).

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any

descriptions of the Goods or illustrations or descriptions of the Services contained in the

Supplier's catalogues or brochures are issued or published for the sole purpose of giving an

approximate idea of the Services and/or Goods described in them. They shall not form part of the

Contract or have any contractual force.

2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer

seeks to impose or incorporate, or which are implied by trade, custom, practice or course of

dealing.

2.5 Any quotation given by the Supplier shall not constitute an offer, and is only valid for a period of

20 Business Days from its date of issue.

2.6 All of these Conditions shall apply to the supply of both Goods and Services except where

application to one or the other is specified.

3. Delivery of Goods

3.1 The Supplier shall deliver the Goods to the location set out in the Order or such other location as

the parties may agree (Delivery Location) at any time after the Supplier notifies the Customer

that the Goods are ready.

3.2 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the

Delivery Location.

3.3 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not

of the essence. The Supplier shall not be liable for any delay in delivery of the Goods that is

caused by a Force Majeure Event or the Customer's failure to provide the Supplier with adequate

delivery instructions or any other instructions that are relevant to the supply of the Goods.

3.4 If the Supplier fails to deliver the Goods, its liability shall be limited to the costs and expenses

incurred by the Customer in obtaining replacement goods of similar description and quality in the

cheapest market available, less the price of the Goods. The Supplier shall have no liability for any

failure to deliver the Goods to the extent that such failure is caused by a Force Majeure Event or⁵

the Customer's failure to provide the Supplier with adequate delivery instructions for the Goods or

any relevant instruction related to the supply of the Goods.

3.5 If the Customer fails to accept delivery of the Goods within three Business Days of the Supplier

notifying the Customer that the Goods are ready, then except where such failure or delay is

caused by a Force Majeure Event or by the Supplier's failure to comply with its obligations under

the Contract in respect of the Goods:

(a) delivery of the Goods shall be deemed to have been completed at 9.00 am on the third Business

Day following the day on which the Supplier notified the Customer that the Goods were ready;

and

(b) the Supplier shall store the Goods until delivery takes place, and charge the Customer for all

related costs and expenses (including insurance).

3.6 If ten Business Days after the day on which the Supplier notified the Customer that the Goods

were ready for delivery the Customer has not accepted delivery of them, the Supplier may resell

or otherwise dispose of part or all of the Goods and, after deducting reasonable storage and

selling costs, account to the Customer for any excess over the price of the Goods or charge the

Customer for any shortfall below the price of the Goods.

3.7 The Supplier may deliver the Goods by instalments, which shall be invoiced and paid for

separately. Each instalment shall constitute a separate contract. Any delay in delivery or defect in

an instalment shall not entitle the Customer to cancel any other instalment.

4. Quality of Goods

4.1 The customer acknowledges that the Supplier is not the manufacturer of the Goods and

accordingly no warranty is given by the Supplier in respect of the same.

4.2 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the

Supplier.

5. Title and risk

5.1 The risk in the Goods shall pass to the Customer on completion of delivery.

5.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in

cash or cleared funds) for the Goods and any other goods and Services that the Supplier has

supplied to the Customer or has agreed to supply to the Customer, in which case title to the

Goods shall pass at the time of payment of all such sums

5.3 Until title to the Goods has passed to the Customer, the Customer shall:

(a) maintain the Goods in satisfactory condition and keep them insured against all risks for their full

price on the Supplier's behalf from the date of delivery;⁶

(b) notify the Supplier immediately if it becomes subject to any of the events listed in clause 13.2b to

clause 13.2d; and

(c) give the Supplier such information relating to the Goods as the Supplier may require from time to

time.

5.4 If before title to the Goods passes to the Customer the Customer becomes subject to any of the

events listed in clause 13.2b to clause 13.2d, then, without limiting any other right or remedy the

Supplier may have:

(a) the Customer's right to resell Goods or use them in the ordinary course of its business ceases

immediately; and

(b) the Supplier may at any time:

(i) require the Customer to deliver up all Goods in its possession which have not been resold, or

irrevocably incorporated into another product; and

(ii) if the Customer fails to do so promptly, enter any premises of the Customer or of any third party

where the Goods are stored in order to recover them.

5.5 The Customer shall not at any time, own any phone number supplied by the Supplier in

connection with the Services.

6. Supply of Services

6.1 The Supplier shall supply the Services to the Customer in accordance with the Service

Specification in all material respects.

6.2 The Supplier reserves the right to amend the Service Specification if necessary to comply with

any applicable law or regulatory requirement, or if the amendment will not materially affect the

nature or quality of the Services, and the Supplier shall notify the Customer in any such event.

6.3 The Supplier warrants to the Customer that the Services will be provided using reasonable care

and skill.

7. Customer's obligations

7.1 The Customer shall:

(a) ensure that the terms of the Order and any information it provides in the Service Specification and

the Goods Specification are complete and accurate;

(b) ensure that all Customer Materials;

(i) will be technically compatible with the Goods and will not harm any Goods or Service provided by

the Supplier;

(ii) are connected using the applicable network termination point unless the Customer has the

Supplier's written permission to connect by another means;

(iii) used in compliance with any relevant instruction, standards or laws;

(iv) adequately protect the Customer against viruses and other breaches of security;

(c) co-operate with the Supplier in all matters relating to the Services;

(d) ensure that the Services are not used;

(i) in contravention of any licence, code of practice, instructions or guidelines;

(ii) fraudulently or in connection with a criminal offence or in any way that is unlawful;

(iii) to send, communicate, knowingly receive, upload, download or use any material or make any

calls that are offensive, abusive, indecent, defamatory, obscene, menacing, cause annoyance,

inconvenience, needless anxiety or are intended to deceive; or in any way the Supplier or a third

party considers to be or likely to be detrimental to the provision of the Service to the Customer or

service to any of the Supplier's other customers.

(e) not to allow an alternative supplier (or any third party) to override or bypass the Services either

through the installation of equipment or through the BTTM local exchange during the term of this

Contract;

(f) be responsible for any engineering reprogramming costs or equipment removal costs that may be

required to terminate the Service of the Customer's previous supplier(s).

(g) provide the Supplier, its employees, agents, consultants and subcontractors, with access to the

Customer's premises, office accommodation and other facilities as reasonably required by the

Supplier to provide the Services;

(h) provide the Supplier with such information and materials as the Supplier may reasonably require

in order to supply the Services, and ensure that such information is complete and accurate in all

material respects;

(i) prepare the Customer's premises for the supply of the Services and/or the Goods;

(j) obtain and maintain all necessary licences, permissions and consents which may be required for

the Services before the date on which the Services are to start;

(k) keep the Goods safe and only use it in accordance with any instructions the Supplier may give;

(l) not move the Goods or any part of it from the Customer's premises with the exception of mobile

phone handsets;

(m) only use or allow the Goods to be used for any purpose for which it is designed;

(n) not make any alterations or attachments to the Goods without the Supplier's prior written consent.

Where such consent is given, the Customer acknowledged that, any alterations or attachments

will become part of the Goods;⁸

(o) not claim to be owner of the Goods and ensure that the owner of the Customer's premises will not

claim ownership of the Goods, even where the Goods are fixed to the premises;

(p) indemnify the Supplier against all claims and proceedings arising from the Customer's use of the

Goods or if the Goods are stolen or damaged as a result of the Customer's negligence or gross

misconduct. The Customer will keep the Supplier informed of anything which may affect the rights

of the Supplier or involve the Supplier in any proceedings, loss or liability;

(q) comply with all applicable laws, including health and safety laws;

(r) only connect phones supplied by the Supplier to access the Service;

(s) permit or make any attempt to disassemble, deconstruct, break down, hack or otherwise interfere

with any Goods supplied by the Supplier;

(t) will install and set-up the phones and connect them to the Customer's network so that they are

ready for service unless Installation is detailed on the Order; and

(u) keep all materials, equipment, documents and other property of the Supplier (Supplier Materials)

at the Customer's premises in safe custody at its own risk, maintain the Supplier Materials in

good condition until returned to the Supplier, and not dispose of or use the Supplier Materials

other than in accordance with the Supplier's written instructions or authorisation.

7.2 Service Specific Obligations

7.2.1 Where the Services being provided include Fixed Network Services, the Customer shall:

1. terminate any contracts with any previous suppliers for services similar to the Services or which are not compatible with the Services. For the avoidance of doubt, the Customer is solely

responsible for any liabilities arising as a result of any such termination.

1. ensure the Customer's premises has a suitable phone line in (e.g. BT provided analogue direct exchange line which terminates on a BT public switched telephone network master socket

forming part of a BT network), unless the Supplier informs the Customer otherwise.

7.2.2 Where the Services include porting telephone numbers, the Customer:

1. will provide BLU SKY with full and accurate details of the number(s) to be ported;
2. will be responsible for reaching any commercial agreement with the suppliers of the services to which those numbers apply, including terminating those services and the payment of any

associated early termination charges.

1. understands that number porting is provided by a third party and as such agrees that the Supplier shall not be liable for any loss or costs suffered by the Customer resulting from loss of service

due to porting of numbers.

7.2.3 Where the Services being provided include Hosted Voice, the Customer:

(i) shall provide a suitable Access Service with sufficient bandwidth to support the Customer's voice

and data usage and service level requirements;

(ii) shall provide a broadband router;

(iii) shall provide a suitable Local Area Network infrastructure (with a minimum of CAT5e structured

cabling)

(iv) acknowledges that whilst the Supplier will use its reasonable endeavours to provide any Hosted

Voice Network Service set out in the Order, the Supplier shall have no liability for the standard of

quality or performance of the VOIP Fixed Network Services and the Supplier draws the following

features of the VOIP Fixed Network Services to the Customer's attention:

(i) the VOIP service may not offer all the features, quality or resilience the Customer may expect

from a conventional phone line; and

(ii) the VOIP service may sometimes be limited, unavailable or disrupted due to events beyond the

Company's control e.g. power disruptions, failures or the quality of any connection;

(iii) wherever possible, alternative arrangements should be made by the Customer and a traditional

telephone line maintained;

(v) The Customer understands that the ability to make 999/112 emergency calls is dependent on the

adequacy and resilience of the LAN and WAN networks.

(vi) The Customer understands and acknowledges that the service may cease to function if there is a

power failure or a failure in the underlying data network.

7.2 If the Supplier's performance of any of its obligations under the Contract is prevented or delayed

by any act or omission by the Customer or failure by the Customer to perform any relevant

obligation (Customer Default):

1. without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend performance of the Services until the Customer remedies the Customer Default,

and to rely on the Customer Default to relieve it from the performance of any of its obligations in

each case to the extent the Customer Default prevents or delays the Supplier's performance of

any of its obligations;

1. the Supplier shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from the Supplier's failure or delay to perform any of its obligations as

set out in this clause 7.2; and

1. the Customer shall reimburse the Supplier on written demand for any costs or losses sustained or incurred by the Supplier arising directly or indirectly from the Customer Default.

8 Charges and payment

8.1 The price for Goods and Services shall be the price set out in the Order and shall be exclusive of

all costs and charges of packaging, insurance, transport of any Goods or Supplier's Materials.¹⁰

8.2 The Supplier reserves the right to increase the charges for the Goods and/or Services at any time

by giving notice to the Customer provided that the Supplier shall not be entitled to increase the

charges more than once in any six month period.

8.3 The Supplier reserves the right to increase the price if the delivery and/or Installation services

takes more than one visit to complete.

8.4 The Supplier reserves the right to apply a minimum monthly threshold on call spend of at least

£10.00 per Customer account (or such other sum as notified to the Customer by the Supplier in

writing from time to time), to keep the account operating at a viable level.

8.5 All invoices issued by the Supplier to the Customer are payable within 30 days of the date of the

invoice.

8.6 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of

value added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes

is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a

valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of

VAT as are chargeable on the supply of the Services or Goods at the same time as payment is

due for the supply of the Services or Goods.

8.7 The Service Rental is payable from the Commencement Date.

8.8 If the Customer fails to make a payment due to the Supplier under the Contract by the due date,

then, without limiting the Supplier's remedies under clause 13 (Termination), the Customer shall

pay interest on the overdue sum from the due date until payment of the overdue sum, whether

before or after judgment. Interest under this clause 8.8 will accrue each day at 4% a year above

the Bank of England's base rate from time to time, but at 4% a year for any period when that base

rate is below 0%.

8.9 All amounts due under the Contract shall be paid in full without any set-off, counterclaim,

deduction or withholding (other than any deduction or withholding of tax as required by law).

9 Data protection

Both parties will comply with all applicable requirements of the Data Protection Legislation.

10 Finance & Credit

The Customer hereby consents to and shall procure that its owners, directors, officers and

assigns consent to, the Company carrying out searches with credit reference agencies relating to

the creditworthiness of the Customer and/or its owners, directors, officers and assigns and the

Customer shall, upon the Supplier's request, promptly supply or procure the supply of all

information requested for a credit search with a credit reference agency, who will add to the11

Customer's records and/or those records of its directors, officers and assigns details of the

searches and these will be seen by other organisations that make searches.

11 Confidentiality

11.1 Each party undertakes that it shall not at any time disclose to any person any confidential

information concerning the business, affairs, customers, clients or suppliers of the other party,

except as permitted by clause 11.2.

11.2 Each party may disclose the other party's confidential information:

1. to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Contract. Each party

shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it

discloses the other party's confidential information comply with this clause 11; and

1. as may be required by law, a court of competent jurisdiction or any governmental or regulatory

authority.

11.3 Neither party shall use the other party's confidential information for any purpose other than to

perform its obligations under the Contract.

12 Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS

CLAUSE.

12.1 The restrictions on liability in this clause 12 apply to every liability arising under or in connection

with the Contract including liability in contract, tort (including negligence), misrepresentation,

restitution or otherwise.

12.2 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited

to liability for:

1. death or personal injury caused by negligence;
2. fraud or fraudulent misrepresentation; and
3. breach of the terms implied by section 12 of the Sale of Goods Act 1979 or section 2 of the

Supply of Goods and Services Act 1982 (title and quiet possession).

12.3 Subject to clause 12.2, the Supplier's total liability to the Customer in respect of all breaches of

duty occurring within any contract year shall not exceed the cap.

12.4 In clause 12.3:

1. cap. The cap is the greater of one hundred and ten per cent (110%) of the total charges in the contract year in which the breaches occurred;

1. contract year. A contract year means a 12-month period commencing with the Commencement

Date or any anniversary of it; and

1. total charges. The total charges means all sums paid by the Customer and all sums payable under the Contract in respect of goods and services actually supplied by the Supplier, whether or

not invoiced to the Customer.

12.5 This clause 12.5 sets out specific heads of excluded loss:

1. The types of loss listed in this clause are wholly excluded by the parties.

(i) loss of profits;

(ii) loss of sales or business;

(iii) loss of agreements or contracts;

(iv) loss of anticipated savings;

(v) loss of use or corruption of software, data or information;

(vi) loss of or damage to goodwill; and

(vii) indirect or consequential loss.

12.6 The Supplier has given commitments as to compliance of the Goods and Services with relevant

specifications in clause 4 and clause 6. In view of these commitments, the terms implied by

sections 13 to 15 of the Sale of Goods Act 1979 and sections 3[, 4] and 5 of the Supply of Goods

and Services Act 1982 are, to the fullest extent permitted by law, excluded from the Contract.

12.7 Unless the Customer notifies the Supplier that it intends to make a claim in respect of an event

within the notice period, the Supplier shall have no liability for that event. The notice period for an

event shall start on the day on which the Customer became, or ought reasonably to have

become, aware of the event having occurred and shall expire 3 months from that date. The notice

must be in writing and must identify the event and the grounds for the claim in reasonable detail.

12.8 This clause 12 shall survive termination of the Contract.

13 Termination

13.1 Subject to the provisions of clauses 13.2 and 13.3, the Contract shall continue for the Duration.

13.2 Without affecting any other right or remedy available to it, either party may terminate the Contract

with immediate effect by giving written notice to the other party if:

1. the other party commits a material breach of its obligations under the Contract and (if such breach is remediable) fails to remedy that breach within 14 days after receipt of notice in writing to do so;¹³

1. the other party takes any step or action in connection with its entering administration, provisional liquidation or any composition or arrangement with its creditors (other than in relation to a solvent

restructuring), being wound up (whether voluntarily or by order of the court, unless for the

purpose of a solvent restructuring), having a receiver appointed to any of its assets or ceasing to

carry on business or, if the step or action is taken in another jurisdiction, in connection with any

analogous procedure in the relevant jurisdiction;

1. the other party suspends, or threatens to suspend, or ceases or threatens to cease to carry on all

or a substantial part of its business; or

1. the other party's financial position deteriorates to such an extent that in the terminating party's opinion the other party's capability to adequately fulfil its obligations under the Contract has been

placed in jeopardy.

13.3 Without affecting any other right or remedy available to it, the Supplier may terminate the Contract

with immediate effect by giving written notice to the Customer if:

1. the Customer fails to pay any amount due under the Contract on the due date for payment; or
2. there is a change of control of the Customer.

13.4 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of

Services or all further deliveries of Goods under the Contract or any other contract between the

Customer and the Supplier if the Customer fails to pay any amount due under the Contract on the

due date for payment, the Customer becomes subject to any of the events listed in clause 13.2b

to clause 13.2d, or the Supplier reasonably believes that the Customer is about to become

subject to any of them.

14 Consequences of termination

14.1 On termination of the Contract:

1. the Customer shall immediately pay to the Supplier all of the Supplier's outstanding unpaid invoices and interest and, in respect of Services and Goods supplied but for which no invoice has

been submitted, the Supplier shall submit an invoice, which shall be payable by the Customer

immediately on receipt;

1. the Customer shall return all of the Supplier Materials and any Deliverables or Goods which have not been fully paid for. If the Customer fails to do so, then the Supplier may enter the Customer's

premises and take possession of them. Until they have been returned, the Customer shall be

solely responsible for their safe keeping and will not use them for any purpose not connected with

this Contract.

14.2 Termination or expiry of the Contract shall not affect any rights, remedies, obligations and

liabilities of the parties that have accrued up to the date of termination or expiry, including the

right to claim damages in respect of any breach of the Contract which existed at or before the

date of termination or expiry.

14.3 Any provision of the Contract that expressly or by implication is intended to have effect after

termination or expiry shall continue in full force and effect.

14.4 If the Contract is terminated (for any reason) before the expiry of the Minimum Term, the

Customer will pay to the Supplier the Early Termination Charges

15 Force majeure

Neither party shall be in breach of the Contract nor liable for delay in performing or failure to

perform, any of its obligations under the Contract if such delay or failure result from events,

circumstances or causes beyond its reasonable control (a Force Majeure Event).

16 General

16.1 Assignment and other dealings

1. The Supplier may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Contract.

1. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without

the prior written consent of the Supplier.

16.2 Notices. (i) Any notice given to a party under or in connection with the Contract shall be in writing and shall

be delivered by hand or by pre-paid first-class post or other next working day delivery service at

its registered office (if a company) or its principal place of business (in any other case).

1. Any notice shall be deemed to have been received:
(i) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper

address; and

(ii) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the

second Business Day after posting or at the time recorded by the delivery service..

16. This clause 16.2 does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

1. A notice given under the Contract is not valid if sent by email.

16.3 Severance. If any provision or part-provision of the Contract is or becomes invalid, illegal or

unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid,

legal and enforceable. If such modification is not possible, the relevant provision or part-provision¹⁵

shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this

clause 16.3 shall not affect the validity and enforceability of the rest of the Contract.

16.4 Waiver. A waiver of any right or remedy under the Contract or by law is only effective if given in

writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by

a party to exercise any right or remedy provided under the Contract or by law shall not constitute

a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of

that or any other right or remedy. No single or partial exercise of any right or remedy provided

under the Contract or by law shall prevent or restrict the further exercise of that or any other right

or remedy.

16.5 No partnership or agency. Nothing in the Contract is intended to, or shall be deemed to,

establish any partnership or joint venture between the parties, constitute either party the agent of

the other, or authorise either party to make or enter into any commitments for or on behalf of the

other party.

16.6 Entire agreement.

1. The Contract constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and

understandings between them, whether written or oral, relating to its subject matter.

1. Each party acknowledges that in entering into the Contract it does not rely on, and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made

innocently or negligently) that is not set out in the Contract. Each party agrees that it shall have

no claim for innocent or negligent misrepresentation or negligent misrepresentation based on any

statement in the Contract.

1. Nothing in this clause shall limit or exclude any liability for fraud.

16.7 Third party rights.

1. Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

1. The rights of the parties to rescind or vary the Contract are not subject to the consent of any other person.

16.8 Variation. Except as set out in these Conditions, no variation of the Contract shall be effective

unless it is agreed in writing and signed by the parties (or their authorised representatives).

16.9 Governing law. The Contract and any dispute or claim (including non-contractual disputes or

claims) arising out of or in connection with it or its subject matter or formation shall be governed

by and construed in accordance with the law of England and Wales.¹⁶

16.10 Jurisdiction. Each party irrevocably agrees that the courts of England and Wales shall have

exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims)

arising out of or in connection with the Contract or its subject matter or formation.