

## **GB TELECOM (SCOTLAND) LTD**

### **NETWORK TERMS AND CONDITIONS OF SERVICE**

“Act” means the Telecommunication Act 1984 and amendments to the ACT that may be made from time to time. “Agreement” means the agreement between the Customer and GB Telecom, entered into subject to these Terms and Conditions and also comprising the terms set out overleaf. “Customer” means the person, firm or corporation specified overleaf. “Service” means the provision of voice and data telecommunications services to the trunks with the calling line identities indicated overleaf.

#### **1. The Service**

GB Telecom (Scotland) Ltd undertakes to exercise all reasonable care in the provision, operation and maintenance of the Service and will use all reasonable efforts to restore the service in the event of failure.

#### **2. Commencement**

2.1 This Agreement shall come into full force and effect from the date of acceptance by GB Telecom and shall continue until terminated by the customer or GB Telecom in accordance with the contract.

#### **3. Duration**

3.1 The Minimum Period is 12,24 or 36 months, or any other period as may be agreed between the Customer and GB Telecom (Scotland) Ltd.

3.2 Upon expiry of the Minimum Term, or any anniversary thereafter, this Contract will renew automatically for a further Subsequent Term, unless terminated by either party in accordance to the terms of this Agreement.

#### **4. Use of the Services**

4.1 The Customer shall be responsible for the safe custody and safe use of the Service and, without prejudice to the generality of the foregoing, the Customer agrees and undertakes:

4.1.1 To use the Service in accordance with such conditions as may be notified to it in writing by GB Telecom from time to time:

4.1.2 Not to cause any attachments other than those approved for connections under the Act to be connected to the Service:

4.1.3 Not to contravene the Act or any other relevant regulations or licences:

4.1.4 not to use the service as a means of communication for a purpose other than that for which the Service provided and as may be set out from time to time in GB Telecom's service literature (GB Telecom will provide the Customer with the maximum notice practicable should there be any change to GB Telecom's service literature and GB Telecom agrees not to make any such changes as would materially affect the parties obligations).

4.1.5 Not to use the Service for transmission for any material or message which is intended to be a hoax call to emergency services

or is of a defamatory, offensive, abusive, obscene or menacing character.

4.1.6 not to use the Service in a manner which constitutes a violation or infringement of the rights of any other party nor to make or intend or attempt to make fraudulent use of the Service, including but not limited to using the service to transmit any message or code, locate a person, or otherwise give or obtain information without payment for the Services or use or attempt to use the Service with the intent to avoid the payment, in whole or in part, of any charges by any means or device.

4.1.7 To maintain its telecommunications apparatus at all times during the period of this agreement in good working order and in conformation with the relevant standard or approval for the time being designated under section 22 of the ACT:

4.1.8 To provide GB Telecom with all such information as it reasonably requests relating to Customer's telecommunication apparatus.

4.2 the Customer shall indemnify GB Telecom against all liabilities, claims, damages, losses and expenses arising directly from any breach of the undertakings contained in the Clause 3.1.

#### **5. Equipment**

5.1 Where GB Telecom is supplying the equipment to the Customer as part of the Service, any specified delivery date shall be treated as an estimate only and shall not be term of this Agreement. GB Telecom accepts no liability for failure to meet the delivery date.

5.2 Wherever necessary, GB Telecom or its appointed agent, engineer or maintainer shall install the Equipment at the Site. GB Telecom shall not be liable for any loss, damages, expenses due to any installation or programming, including reprogramming of a least cost routing software, if carried out by persons other than its appointed agent, engineer or maintainer.

5.3 The Equipment shall at all times remain the property of GB Telecom. The Customer shall not let, sell, charge, assign, sub-licence, allow use by a third party of, or otherwise encumber the Equipment in whole or in part in any manner whatsoever shall not prejudice GB telecom's rights in such Equipment in any way.

5.4 The Customer shall be responsible for the Equipment while it is in the Customers custody and shall notify GB Telecom immediately of any faults which occur, any repairs which become necessary or of any loss or damage to the Equipment. The Customer shall indemnify GB Telecom against any loss or damage to the equipment.

5.5 Subject to paragraphs 4.7 and 4.8 below, GB Telecom will use its reasonable endeavours to carry out during normal working hours all repairs to the equipment which become reasonably and properly necessary to maintain the Service without charge to the Customer.

5.6 The Customer undertakes not by itself, its agents or its servants or otherwise to carry out any repairs, alterations, modifications or maintenance or make any additions or attachments to or otherwise alter the Equipment without the prior written consent of GB Telecom.

5.7 GB telecom shall not be responsible for faults arising or repairs necessary where such faults arising or necessity of repairs result from:

5.7.1 Breach of paragraph 4.6 above;

5.7.2 The Customers negligence or default;

5.7.3 Failure by the Customer to use the Service in accordance with this Agreement or any reasonable or necessary instruction by GB Telecom;

5.7.4 Any act, omission or fault associated with a telecommunications system other than that of GB Telecom; or

5.7.5 Any other cause beyond the reasonable control of GB Telecom.

5.8 If GB telecom carries out repairs or maintenance work arising under paragraph 4.7

above or if GB Telecom is required to perform work outside normal working hours, GB telecom shall be entitled to levy a reasonable charge for such work.

5.9 The Customer undertakes to allow GB Telecom access at all reasonable times to the Site for the purposes of implementation and performance of this Agreement and to provide GB telecom, free of charge, with all information and assistance reasonably required by GB Telecom to perform its obligations under this Agreement.

5.10 The Customer shall be responsible for obtaining and where appropriate, paying for all necessary licences, consents and approvals required by third parties for the installation and use of the equipment.

5.11 The Customer undertakes that any telecommunications equipment supplied or used by the Customer in conjunction with the Equipment is in good working order and complies with all applicable legislation and standards.

#### **6. Access to Premises & Provision of Information**

6.1 To enable GB Telecom to exercise its obligations under this Agreement:

6.1.1 The Customer shall permit or procure permission for GB Telecom and any other person(s) authorised by GB Telecom to have reasonable access to its premises and the Service's connection points and shall provide such reasonable assistance as GB Telecom requests.

6.1.2 GB Telecom will normally carry out work, by appointment and during normal working hours, but may request the Customer to provide access at other times but such requests shall not oblige the Customer to provide such access.

6.1.3 At the Customers request GB Telecom may agree to work outside normal working hours and the customer shall pay GB Telecom's reasonable charges for complying with such request.

6.1.4 If the Customer requests maintenance or repair work which is found to be necessary, the customer may be charged for the work

and the cost incurred. GB telecom will give notice that work is considered unnecessary prior to completion and raising charges.

6.1.5 Customer permits GB Telecom to use information about the calls made by the Customer including but not to origin, destination, duration, route and time so that GB Telecom can perform its obligations under this Agreement and maintain or upgrade the Service and/or produce statistics to assist GB Telecom or GB Telecom operators in their network planning.

## **7. Suspension of Service**

7.1 GB Telecom may at its sole discretion at any time with immediate effect elect to suspend forthwith provision of the Service until further notice without compensation if:

7.1.1 The Customer is in breach of a material term of this Agreement including for the purposes of this Agreement, its failure to pay monies due to GB Telecom on the due date.

7.1.2 GB telecom is obliged to comply with an order, instruction or request of the Government, an emergency services organisation or other competent administrative authorities.

7.1.3 For reasons of modification or preventative or emergency maintenance.

7.2 The Customer shall reimburse GB Telecom for all reasonable costs and expenses incurred by the implementation of such suspension and/or the recommencement of the provision of the Service as appropriate, but only where the suspension is implemented as a consequence of breach, fault or omission of the Customer.

## **8. Liability**

8.1 Nothing in this Agreement shall exclude or restrict GB Telecom's liability for the death or personal injury resulting from the negligence of GB Telecom or of its employees while acting in the course of their employment.

8.2 In the event that the service fails to operate and the Customer diverts traffic to another carrier, GB Telecom will not be responsible for the carrier's charges.

8.3 Neither party shall be liable to the other in contract, tort or otherwise for any loss of business, contracts anticipated savings or profits or for any other indirect or consequential loss whatsoever.

8.4 Neither party shall be liable to the other for any loss or damage which may be suffered by the other party due to any cause beyond the first party's reasonable control including without limitation any Act of God, inclement weather, failure of shortage of power supplies, flood, drought, lightening or fire, strike, lock-out, trade dispute or labour disturbance, any act or omission of Government, highways authorities, other public telecommunication operators or other competent authorities.

## **9. Charges and Payments**

9.1 The Customer shall be invoiced monthly by GB Telecom and agrees to pay charges within 14 days of receipt of invoice.

9.2 Charges will be at GB Telecom's current price list .

9.3 GB Telecom intend that there will be no price increases in usage charges during the term of this Agreement. Should price increases become necessary the Customer will have twenty eight days from written notification of said increases to terminate in writing the Agreement without penalty.

9.4 Usage charges payable shall be calculated by reference to data recorded or logged by GB Telecom and not by reference to any data logged or recorded by the Customer.

9.5 GB Telecom reserves the right to change daily interest on amounts outstanding 14 days after invoice until payment has been received in full, at a rate equal to 4% per annum above the Bank of Scotland base Lending rate as current from time to time, whether before or after judgement. Interest shall continue to accrue notwithstanding termination of this Agreement.

9.6 All sums referred to in this Agreement are exclusive of Value Added Tax and any taxes of a similar nature which may from time to time be introduced.

## **10. Termination**

10.1 Notwithstanding anything to the contrary expressed or implied in this agreement, either party (without prejudice to its own rights) may terminate this agreement forthwith in the event that a liquidator (other than for the purpose of amalgamation or reconstruction), trustee in bankruptcy, administrator, receiver and manager is appointed in respect of the whole part of the assets and/or undertaking of the Customer or the Customer enters into an arrangement or composition with its creditors, or if the Customer becomes unable to pay its debts within the meaning of s123 of the insolvency Act 1986, or other circumstances arise which entitle a court or creditor to appoint a receiver or administrator or to make a winding up order.

10.2 Notwithstanding anything to the contrary expressed or implied in this agreement, GB Telecom (without prejudice to its own rights) may terminate this agreement forthwith in the event that any licence under which the Customer has the right to run its telecommunications system and connect it to the Service is revoked, amended or otherwise ceases to be valid.

10.3 If the Customer wishes to cancel the Agreement in whole or in part prior to connection, GB Telecom will agree to such cancellation upon the basis that the Customer shall reimburse to GB Telecom any circuit cancellation charges levied on GB telecom by BT or any other suppliers.

10.4 In the event that the Customer terminated this agreement and fails to give three months written notice, as per clause 2.3, we reserve the right to raise a charge to recover the lost revenue up to a maximum sum equal to your average monthly billing.

10.4.1 Any dialler Equipment supplied by GB Telecom remains the property of GB Telecom and must be made available for collection in the event of termination. Failure to make the Equipment available may result in reasonable charges for that Equipment.

## **11. Assignment**

GB Telecom may, but the Customer shall not (without prior written consent of GB Telecom) assign, transfer, or delegate or otherwise

deal with all or any of its rights and obligations under this agreement.

## **12. General**

12.1 This Agreement represents the entire understanding between parties in relation to the subject matter hereof and supersedes all other agreements and representation made by either party, whether oral or written and this Agreement may only be modified if such modification is in writing and signed by a duly authorised representative of each party thereto.

12.2 Failure by either party to exercise or enforce any right conferred to this Agreement shall not be deemed to be a waiver of any such right and not operate so as to bar the exercise of enforcement thereof or of any other right on any later occasion.

12.3 By signing the form overleaf, the Customer thereby agrees to the total exclusion if all its terms and conditions of business from this Agreement.

12.4 Any notice, invoice or other document which may be given by GB Telecom under this Agreement shall be deemed to have been duly given if left at or sent by post to an address to which notices invoices or other documents may be sent, or the Customers usual or last known place of abode or business, or if the Customer is a limited company, its registered office. GB Telecom's address for the Service of any notice by the Customer under this Agreement shall be such address as it is shown on the last invoice rendered to the Customer or such address as GB Telecom may prescribe for that purpose.

12.5 This Agreement shall be governed by and construed and interpreted in accordance with Scottish law, and the parties hereby submit to the jurisdiction of the Scottish courts.

12.6 Any Director or representative of a limited company who signs on behalf of the Customer will be deemed an authorised signatory and thereby guarantee the customers acceptance of its obligations under this Agreement.