

360Coms Ltd

Part of the:

360
group



Terms and Conditions

TABLE OF CONTENTS

1.	INTERPRETATION.....	2
2.	BASIS OF CONTRACT	5
3.	SUPPLY OF GOODS AND SERVICES	5
4.	DELIVERY OF GOODS AND SUPPLY OF SERVICES.....	6
5.	QUALITY OF GOODS	7
6.	TITLE AND RISK.....	8
7.	SUPPLY OF SERVICES	9
8.	CUSTOMER'S OBLIGATIONS	9
9.	CHARGES AND PAYMENT	11
10.	INTELLECTUAL PROPERTY RIGHTS.....	14
11.	DATA PROTECTION.....	14
12.	CONFIDENTIALITY	16
13.	LIMITATION OF LIABILITY	16
14.	TERMINATION	17
15.	CONSEQUENCES OF TERMINATION.....	18
16.	FORCE MAJEURE	19
17.	GENERAL.....	20
	SCHEDULE 1. VOIP/SIP SERVICES	23
	SCHEDULE 2. FIXED LINE SERVICES	26
	SCHEDULE 3. MOBILE SERVICES.....	31
	SCHEDULE 4. MICROSOFT ONLINE SERVICES.....	343
	SCHEDULE 5. REPAIR SERVICES	354

NOTE: THESE TERMS AND CONDITIONS PROVIDE FOR A LIMITATION OF LIABILITY. PLEASE REFER TO CLAUSE 13 (LIMITATION OF LIABILITY) FOR THE EXTENT OF THE LIMITATION OF LIABILITY PROVISIONS.

1. INTERPRETATION

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

"Business Day": a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

"Charges": the amounts payable by the Customer to the Supplier for the provision of Goods and/or Services set out more particularly at clause 9.

"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 17.8, including, for the avoidance of doubt, the Special Conditions.

"Contract": the contract between the Supplier and the Customer for the supply of Goods and/or Services set out in the Order 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" (also referred to as 'you', 'your'): the person or entity who purchases the Goods and/or Services from the Supplier.

"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).

"Force Majeure Event": has the meaning given to it in clause 16.

"Goods":	the goods or equipment (or any part of them) set out in the Quotation.
"Goods Specification":	any specification for the Goods, including any relevant plans or drawings, that are set out in the Quotation or which are otherwise agreed in writing by the Customer and the Supplier.
"Intellectual Property Rights":	patents, rights to inventions, copyright and related 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.
"Invoice":	an invoice issued by the Supplier for the Goods and/or Services supplied pursuant to a Quotation.
"Location":	Has the meaning given to it in clause 4.2.
"Management":	any person or persons authorised by the Supplier to manage the affairs of its business.
"Network":	the operators of the underlying communications networks used by the Supplier in the provision of the Services.
"Order":	your acceptance of our Quotation for the supply of the Goods and/or Services set out in the Quotation.
"PSTN":	Public Switched Telephone Network.
"Quotation":	The quotation issued by the Supplier to the Customer for the supply of Goods and/or Services including, if applicable the Goods Specification and/or the Services Specification.
"Services":	the services to be provided by the Supplier as set out in the Quotation.

"Service Specification":	any specification for the Goods, including any relevant plans or drawings, that are set out in the Quotation or which are other agreed in writing by the Customer and the Supplier.
"Service Term":	the period of time for which the supply of any recurring Services by the Supplier is set out in the Quotation to be for.
"Special Conditions":	The terms and conditions set out at Schedules 1 – 6 for the provision of the Goods and/or Services to which those conditions relate.
"Supplier" (also referred to as 'we', 'us', 'our'):	means 360Coms Limited a company registered in England and Wales under company number 2656999 of Unity House, Compass Point Business Park, St Ives, Cambridgeshire, PE27 5JL and includes all employees and agents of 360Coms Limited.
"Supplier's Equipment":	has the meaning given in clause 8.1.8.
"Territory":	unless specified otherwise, means the United Kingdom.
"Third Party Software Licence":	a licence under which the Supplier supplies third party software to the Customer as part of the supply of Goods and/or Services.
"User(s)":	any person permitted by the Customer to use the Services.
"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.

- 1.2 Reference to a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.3 A reference to a person who is a natural person includes its successors and permitted assigns.
- 1.4 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.

1.5 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.

1.6 A reference to **writing** or **written** includes by Royal Mail post or 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, including if relevant, the Special 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 between the Customer and Supplier shall come into existence ("**Commencement Date**").

2.3 Any samples, drawings, descriptive matter or advertising issued by the Supplier and any 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 law, 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 30 Business Days from its date of issue, unless agreed by the Management with the Customer in writing.

2.6 All of these Conditions, including the Special Conditions, if relevant, shall apply to the supply of both Goods and Services except where application to one or the other is specified.

3. SUPPLY OF GOODS AND SERVICES

3.1 The Goods and/or Services shall be as described in the Quotation and/or Invoice and in any documents referred to in the Quotation and/or Invoice or provided by the Supplier to the Customer with the Quotation and/or Invoice, unless expressly varied in writing by the Management.

3.2 The Customer shall indemnify the Supplier against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other professional costs and expenses) suffered or incurred by the Supplier arising out of or in connection with any claim made against the Supplier for actual or alleged infringement of a third party's intellectual property rights arising out of or in connection with the Supplier's use of the Goods and/or Services. This clause 3.2 shall survive termination of the Contract.

3.3 The Supplier reserves the right to amend the Goods Specification and/or Services Specification if required by any applicable statutory or regulatory requirement and the Supplier shall notify the Customer in any such event.

4. DELIVERY OF GOODS AND SUPPLY OF SERVICES

4.1 The Supplier shall ensure that the delivery of the Goods is accompanied by a delivery note which shows the date of the Order, the type and quantity of the Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered.

4.2 The Supplier shall deliver the Goods and/or supply the Services to the location set out in the Order or such other location as the parties may agree ("**Location**") at any time after the Supplier notifies the Customer that the Goods and/or Services are ready.

4.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Location and/or the supply of Services shall be completed on any installation carried out by the Supplier or upon the commencement of any service provided by the Network or other third party provider being first made available to the Customer save in the case of the Customer installation of the Supplier's Equipment in which case the supply of Services shall be completed on the delivery of the Supplier's Equipment.

4.4 Any dates quoted for delivery of the Goods and/or the supply of Services by the Supplier are approximate only, and the time of delivery or supply is not of the essence. The Supplier shall not be liable for any delay in delivery of the Goods and/or the supply of Services that is made within 42 days of the date specified for delivery or supply that is caused by a Force Majeure Event or the Customer's failure to facilitate the supply of the Services by providing the Supplier with adequate delivery instructions, access or any other assistance or instructions that are relevant to the delivery of the Goods and/or the supply of the Services.

4.5 Save that this clause 4.5 shall not apply to any delays in the supply of the Services caused by the Network, subject to clause 4.7 below if the Supplier fails to deliver the Goods and/or supply the Services within 42 days of any date notified by the Supplier that delivery of the Goods and/or supply of Services would be effected by, the Customer may serve notice upon the Supplier requiring delivery of the Goods and/or supply of Services within 7 days of the date of delivery of the Customer's notice.

4.6 In the event delivery of the Goods by the Supplier is not effected within 7 days of the delivery of the Customer's notice pursuant to clause 4.5 above the Customer may cancel the Order with immediate effect in writing upon which the parties shall have no liability to each other.

4.7 If the Customer fails to accept delivery of the Goods on the Supplier seeking to effect delivery, or if the Customer fails to facilitate the supply of the Services for the reasons set out clause 4.9 on the Supplier informing the Customer that it is ready, willing and able to effect the supply of the Services then except where such failure is caused by

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

- 4.7.1 delivery of the Goods and/or the provision of Services shall be deemed to have been completed at 9.00 am on the third Business Day following the day on which the Supplier first notified the Customer that the Goods were ready to be delivered or from when the Supplier first tried to deliver the Goods and/or from when the Supplier first sought to supply the Services upon which the Customer shall be liable for the Charges; and
 - 4.7.2 in the case of the supply of Goods the Supplier shall store the Goods until delivery takes place, upon which the Customer shall be liable to pay, at the Supplier's election (such election being given by the service of written notice to this effect), an amount equal to 2% of the total Order value in which the Goods or any part of them were contained for each week or part of a week in which the Goods are stored by the Supplier in addition to the payment of a re-delivery charge in an amount equal to 10% of the total Order value in which the Goods or any part of them were contained.
- 4.8 If 30 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 the Goods, the Supplier may, at its election resell or otherwise dispose of part or all of the Goods and the Customer shall be liable to the Supplier for any shortfall between the price of Goods as set out in the Order and the resale price achieved by the Supplier and, in addition, the Customer shall be liable for the charges set out at clause 4.7.2 and any costs incurred by the Supplier in the sale of the Goods.
- 4.9 If 30 Business Days after the Supplier's provision of the Services is deemed to have been completed pursuant to clause 4.7.2 above the Customer has failed to facilitate the supply of the Services by providing the Supplier with access to the Location or any other of the Customer's premises as may be relevant or any other assistance or instructions that are relevant to the supply of the Services or has failed to accept the terms of a Third Party Software Licence required in order for the Supplier to be able to supply the Services or in any other way reasonably required by the Supplier, the Supplier shall, at its election be entitled to treat the Customer as having served notice terminating the Contract pursuant to clause 14.1.1 upon which the provisions of clause 15 shall apply.
- 4.10 The Supplier may deliver the Goods by instalments and the Supplier may issue and Invoice for the Goods supplied by instalments, payment of which shall be due in accordance with these Conditions. 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.

5. QUALITY OF GOODS

- 5.1 The Supplier warrants that on delivery the Goods shall:
- 5.1.1 conform in all material respects with the Goods Specification, if applicable;
 - 5.1.2 be free from material defects in design, material and workmanship; and

- 5.1.3 be fit for any purpose held out by the Supplier.
- 5.2 Subject to clause 5.3, the Supplier shall, at its option, repair or replace any defective Goods, or refund the price of any defective Goods in full if:
 - 5.2.1 the Supplier is given a reasonable opportunity of examining such Goods; and
 - 5.2.2 the Customer (if asked to do so by the Supplier in writing) returns such Goods to the Supplier's place of business.
- 5.3 The Supplier shall not be liable for the Goods' failure to comply with the warranty in clause 5.1 if:
 - 5.3.1 the Customer makes any further use of such Goods after giving a notice in accordance with clause 5.2;
 - 5.3.2 the defect arises because the Customer failed to follow guidelines issued by the manufacturer of the equipment or the Supplier's oral or written instructions as to the storage, installation, commissioning, use or maintenance of the Goods or (if there are none) good trade practice;
 - 5.3.3 the defect arises as a result of the Supplier following any drawing, design or Goods Specification supplied by the Customer;
 - 5.3.4 the Customer alters or repairs such Goods without the written consent of the Supplier;
 - 5.3.5 the defect arises as a result of fair wear and tear, wilful damage, negligence, or abnormal working conditions; or
 - 5.3.6 the Goods differ from their description as a result of changes made to ensure they comply with applicable statutory or regulatory standards.
- 5.4 The terms of these Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6. TITLE AND RISK

- 6.1 The risk in the Goods shall pass to the Customer as follows:
 - 6.1.1 at the time the Goods are delivered to the Customer's premises; or
 - 6.1.2 or if the Customer fails to accept delivery of the Goods, at the time that the Supplier attempted delivery of the Goods on the first occasion; or
 - 6.1.3 in the case of Goods being installed by the Supplier, at the time that the Supplier notifies the Customer that the installation is complete.
- 6.2 Title to the Goods shall not pass to the Customer until the Supplier receives payment in full (in cash or cleared funds) for all Goods supplied to the Customer and for which payment by the Customer remains outstanding whether in full or in part.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:

- 6.3.1 store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as the Supplier's property;
 - 6.3.2 not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - 6.3.3 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;
 - 6.3.4 notify the Supplier immediately if it becomes subject to any of the events listed in clause 14.2.1 to clause 14.2.3; and
 - 6.3.5 give the Supplier such information relating to the Goods as the Supplier may require from time to time.
- 6.4 The Supplier may recover Goods in which title has not passed to the Customer. The Customer irrevocably licenses the Supplier, its officers, employees and agents, to enter any premises of the Customer (including with vehicles), in order to satisfy itself that the Customer is complying with the obligations in Clause 6.3, and to recover any Goods in which title has not passed to the Customer.

7. SUPPLY OF SERVICES

- 7.1 The Supplier shall supply the Services to the Customer in accordance Order and in accordance with the Service Specification in all material respects.
- 7.2 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.
- 7.3 Subject to clause 7.4 below, the Supplier warrants to the Customer that the Services will be provided using reasonable care and skill to a standard accepted in the telecommunications industry.
- 7.4 The Customer understands and accepts that the Supplier has no control over and is not liable to the Customer in respect of the following matters:
 - 7.4.1 the provision of services by the Network or other relevant third party service provider including, specifically, the Network of other relevant third party services provider outside of the United Kingdom;
 - 7.4.2 that the Services will be provided uninterrupted or free from fault at all times;
 - 7.4.3 that where a Service requires access to the internet, the consistent uninterrupted connection to the internet.
- 7.5 The Customer understands and accepts that the use of the internet by the Customer via the Services provided by the Supplier is at the Customer's own risk.

8. CUSTOMER'S OBLIGATIONS

- 8.1 The Customer shall:

- 8.1.1 ensure that the terms of the Quotation and any information it provides for the purposes of the preparation of the Goods Specification and/or the Service Specification are complete and accurate;
 - 8.1.2 co-operate with the Supplier in all matters relating to the Services;
 - 8.1.3 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;
 - 8.1.4 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;
 - 8.1.5 prepare the Customer's premises for the supply of the Services;
 - 8.1.6 comply with all applicable laws, including health and safety laws;
 - 8.1.7 comply with the Supplier's reasonable instructions relating to the use of the Goods and/or Services; and
 - 8.1.8 keep all devices, equipment and other property of the Supplier ("**Supplier's Equipment**"), supplied to the Customer at the Location or elsewhere for the purposes of the supply of the Goods and/or Services or otherwise in safe custody at its own risk, maintained in good condition until returned to the Supplier, and not dispose of or use the Supplier Equipment other than in accordance with the Supplier's written instructions or authorisation.
- 8.2 The Customer shall not use the Goods and/or Services:
- 8.2.1 for any illegal or other unlawful purpose;
 - 8.2.2 for any immoral, indecent, threatening, hateful or malicious purpose or for the purpose of making nuisance calls;
 - 8.2.3 send unsolicited advertising or spam;
 - 8.2.4 in any way which may infringe any intellectual property rights of the Supplier, the manufacturer of the Goods, the Network or any other third party;
 - 8.2.5 in any way that could cause damage to the reputation of the Supplier, the manufacturer of the Goods, the Network or any other third party;
 - 8.2.6 to abuse, threaten or intimidate the Supplier's staff or those of the manufacturer of the Goods, the Network or any other third party;
 - 8.2.7 otherwise than in accordance with the Supplier's and any Network policies for acceptable and fair use and any relevant internet standards.
- 8.3 The Customer shall not, and not allow any third party on its behalf to:

- 8.3.1 install any software, device or piece of equipment for the purpose of re-routing Network services (including voice, data and internet) to or from the Network, including, but not limited to, a GSM Gateway;
 - 8.3.2 do anything to modify or otherwise interfere with the Services supplied by the Supplier, including, but not limited to, the installation of any software, device or piece of equipment solely for the purposes of reducing or otherwise circumventing the Charges;
 - 8.3.3 use the Goods and/or the Services in a manner contrary to the purpose for which the Goods and/or Services are supplied by the Supplier or otherwise in breach of these Conditions;
 - 8.3.4 copy, alter, adapt, translate, develop, decompile, license, sub-license, reverse engineer or resell any of the Goods and/or Services unless expressly permitted to do so by the Supplier or to the extent permitted by law.
- 8.4 If the Supplier's performance of any of its obligations under the Contract is impacted, prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation ("**Customer Default**"):
- 8.4.1 without limiting or affecting any other right or remedy available to it, the Supplier shall have the right to suspend the delivery of the Goods and/or supply 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;
 - 8.4.2 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 8.34; and
 - 8.4.3 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.

9. CHARGES AND PAYMENT

- 9.1 The price for the Goods and/or Services shall be the price set out in the Order or, if no price is specified in the Order, the Supplier's standard price for the Goods and/or Services applicable at the Commencement Date pursuant to clause 2.2.
- 9.2 Any sum payable on a monthly basis shall be for the provision of the Goods and/or Services for one month or part thereof.
- 9.3 In relation to the provision of the Services consisting of ad-hoc, break fix, one-off maintenance and repair services:
 - 9.3.1 the Supplier shall charge and the Customer shall be liable to pay a price calculated on a time and materials basis in accordance with the Supplier's daily fee rates applicable from time to time;

- 9.3.2 the Supplier's daily fee rates for each individual person are calculated on the basis of a seven-hour day from 9.00 am to 5.00 pm worked on Business Days;
 - 9.3.3 the Supplier shall be entitled to charge an overtime rate of 150% of the daily fee rate (on a pro-rata hourly basis) for any time worked by the Supplier or any sub-contractors whom the Supplier engages in connection with the provision of Services outside the hours referred to in clause 9.3.2; and
 - 9.3.4 the Supplier shall be entitled to charge and the Customer shall be liable to pay any expenses reasonably incurred by the Supplier or by any sub-contractors whom the Supplier engages in connection with the Services including travelling expenses, hotel costs, subsistence and any associated expenses, and for the cost of services provided by third parties and required by the Supplier for the performance of the Services, and for the cost of any materials.
- 9.4 The Supplier shall be entitled to increase the price for the supply of subscription, rental or other recurring charges applicable in the provision of the Services, by giving 30 days' notice to the Customer at any time, to reflect any increase in the cost of the provision of Services incurred by the Supplier that is due to:
- 9.4.1 any factor beyond the control of the Supplier (including foreign exchange fluctuations, increases in taxes and duties, new laws or regulations, increased charges to the Supplier by the Network or other third party charges);
 - 9.4.2 any request by the Customer to change the terms of the provision of the Services where such request is expressly accepted by the Supplier; or
 - 9.4.3 any act or omission on the part of the Customer that has the effect of causing an increase to the cost of the supply of the Services by the Supplier to the Customer.
- 9.5 In respect of Goods, the Supplier shall issue an electronic Invoice to the Customer on or at any time after completion of delivery. Subject to clause 9.5 below, in respect of the supply of the Services, the Supplier shall issue an electronic Invoice to the Customer on provision of the Services (as applicable).
- 9.6 The Customer, within 10 days of receiving an Invoice, shall pay to the Supplier in full and in cleared funds by way of Direct Debit:
- 9.6.1 all subscription, rental or other recurring charges in advance; and
 - 9.6.2 any voice, data or internet usage charges (including any international calls and/or text messages) in arrears;
- to the Supplier's bank account as follows:

Name of account: 360ComsLtd (Billing Account)

Bank name: HSBC UK Bank Plc
Bank address: Cathedral Square, Peterborough, PE1 1XL
Account number: 22772795
Sort code: 40-36-15

- 9.7 Any payment made by the Customer to the Supplier other than by way of Direct Debit shall be subject to an administration charge of £20.
- 9.8 All other charges due and owing by the Customer to the Supplier shall be due for payment by the Customer within 10 days of the Supplier issuing an Invoice to the Customer.
- 9.9 Time for payment by the Customer shall be of the essence of the Contract.
- 9.10 Unless stated in the Order as already including value added tax (“**VAT**”), all amounts payable by the Customer under the Contract are exclusive of amounts in respect of VAT chargeable from time to time. Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 9.11 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 14 (Termination), the Customer shall:
- 9.11.1 Pay a late payment charge of £25 per overdue invoice; and
- 9.11.2 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 9.10 will accrue each day at 4% a year above the Bank of England's base rate from time to time.
- 9.12 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).
- 9.13 The Supplier reserves its rights, without limiting its remedies under clause 14 (Termination), to recover any outstanding payment due together with interest as a debt from the Customer. The Supplier may instruct a third-party debt collection agency or solicitors to recover the debt on its behalf and the Customer shall be liable to pay to the Supplier the legal costs incurred by the Supplier in this regard.
- 9.14 Invoices shall be deemed to have been accepted if the customer does not present any objection in writing, clearly identifying the disputed invoice and the reason(s) why it is challenged, to 360Coms Ltd within 30 days of the invoice date.
- 9.15 The customer acknowledges that they have 90 days from connection date to claim any termination fee settlements 360Coms Ltd have agreed to pay as stated on the

order form. A copy of third-party invoice for early termination fees along with the customers invoices are required for the payment to be processed. Buy-outs will be settled 30days from acceptance that the third party invoice is verified.

10. INTELLECTUAL PROPERTY RIGHTS

- 10.1 All Intellectual Property Rights in or arising out of or in connection with the supply of Goods and/or Services by the Supplier (other than Intellectual Property Rights in any materials provided by the Customer) shall belong to the Supplier or to the manufacturer of the Supplier's Equipment, the manufacturer of the Goods, by the Network or by such other third party supplier as is appropriate.
- 10.2 The Customer will not infringe any copyright, or registered or unregistered trademark rights belonging to the Supplier or to the manufacturer of the Supplier's Equipment, the manufacturer of the Goods, by the Network or by such other third party supplier as is appropriate.
- 10.3 The Customer grants the Supplier a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to the Supplier for the term of the Contract for the purpose of providing the Services to the Customer.

11. DATA PROTECTION

- 11.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 11 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this clause 11, **Applicable Laws** means (for so long as and to the extent that they apply to the Supplier) the law of the European Union, the law of any member state of the European Union and/or Domestic UK Law; and **Domestic UK Law** means the UK Data Protection Legislation and any other law that applies in the UK.
- 11.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the controller and the Supplier is the processor.
- 11.3 Without prejudice to the generality of clause 11.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the personal data to the Supplier for the duration and purposes of the Contract.
- 11.4 Without prejudice to the generality of clause 11.1, the Supplier shall, in relation to any personal data processed in connection with the performance by the Supplier of its obligations under the Contract:
 - 11.4.1 process that personal data only for purposes strictly required in order for the Supplier to supply the Goods and/or Services unless the Supplier is required by Applicable Laws to otherwise process that personal data. Where the Supplier is relying on Applicable Laws as the basis for processing personal data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Supplier from so notifying the Customer;

- 11.4.2 ensure that it has in place reasonable technical and organisational measures, to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures;
 - 11.4.3 ensure that all personnel who have access to and/or process personal data are obliged to keep the personal data confidential; and
 - 11.4.4 not transfer any personal data outside of the European Economic Area unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
 - (a) the Customer or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (b) the data subject (as defined in the Data Protection Legislation) has enforceable rights and effective legal remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any personal data that is transferred; and
 - (d) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the personal data;
 - 11.4.5 assist the Customer, at the Customer's cost, in responding to any request from a data subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - 11.4.6 notify the Customer without undue delay on becoming aware of a personal data breach;
 - 11.4.7 at the written direction of the Customer, delete or return personal data and copies thereof to the Customer on termination of the Contract unless required by Applicable Law to store the personal data; and
 - 11.4.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 11 and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 11.5 The Supplier may, at any time on not less than 30 days' notice to the Customer, revise this clause 11 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to the Contract).

12. CONFIDENTIALITY

- 12.1 Each party undertakes that it shall not at any time during the Contract, and for a period of 2 years after termination of the Contract, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 12.2.
- 12.2 Each party may disclose the other party's confidential information:
- 12.2.1 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 12; and
- 12.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 12.3 Neither party shall use the other party's confidential information for any purpose other than to perform its obligations under the Contract.

13. LIMITATION OF LIABILITY

- 13.1 The restrictions on liability in this clause 13 apply to every liability arising under or in connection with the Contract including liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 13.2 Neither party may benefit from the limitations and exclusions set out in this clause in respect of any liability arising from its deliberate default.
- 13.3 Nothing in the Contract limits any liability which cannot legally be limited, including but not limited to liability for:
- 13.3.1 death or personal injury caused by negligence;
- 13.3.2 fraud or fraudulent misrepresentation.
- 13.4 Subject to clause 13.3, the Supplier's total liability to the Customer shall not exceed a sum equal to the total amount paid by the Customer to the Supplier under the Contract in the 12 months leading up to and ending on the notification by the Buyer of the Supplier's liability or potential liability.
- 13.5 This clause 13.5 sets out specific heads of excluded loss:
- 13.5.1 Subject to clause 13.3, the types of loss listed in clause 13.5.2 are wholly excluded by the parties.
- 13.5.2 The following types of loss are wholly excluded:
- (a) loss of profits;
 - (b) loss of sales or business;

- (c) loss of agreements or contracts;
- (d) loss of anticipated savings;
- (e) loss of use or corruption of software, data or information;
- (f) loss of or damage to goodwill; and
- (g) indirect, special or consequential loss.

13.6 The Supplier has given commitments as to compliance of the Goods and/or Services with relevant specifications in clause 5 and clause 7. 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.

13.7 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 30 days from that date. The notice must be in writing and must identify the event and the grounds for the claim in reasonable detail.

13.8 This clause 13 shall survive termination of the Contract.

14. TERMINATION

14.1 Without affecting any other right or remedy available to it, either party may terminate the Contract as follows:

14.1.1 by the Customer giving the Supplier not less than 30 days' written notice for all Services except for leased lines provided as part of the Fixed Lines Services for which the Customer shall give not less than 90 days' written notice for each leased line;

14.1.2 by the Supplier giving the Customer not less than 90 days' written notice.

14.2 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:

14.2.1 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 10 Business Days after receipt of notice in writing to do so;

14.2.2 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

- 14.2.3 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.
- 14.3 Without affecting any other right or remedy available to it, the Supplier may suspend the supply of the Services or all further deliveries of the Goods or terminate the Contract or any other contract between the Customer and Supplier with immediate effect (at the Supplier's election) by giving written notice to the Customer if:
- 14.3.1 the Customer fails to pay any amount due under the Contract on the due date for payment;
- 14.3.2 the Customer becomes subject to any of the events listed in clause 14.2.1 to clause 14.2.3, or the Supplier reasonably believes that the Customer is about to become subject to any of them;
- 14.3.3 there is a change of control of the Customer.
- 14.4 Further to clause 14.3 above, the Customer shall be liable to pay to the Supplier a reconnection charge for the reconnection of any Services suspended by the Supplier as a result of the Customer failing to pay any amount due under the Contract on the due date, or otherwise pursuant to these Conditions as follows:
- 14.4.1 For Mobile Services the charge shall be £20 per each mobile phone number and/or data SIM card;
- 14.4.2 For Fixed Line Services, Leased/EFM/Ethernet services the charge shall be £150 per line;
- 14.4.3 For analogue telephone phone lines the charge shall be £15 per line.

15. CONSEQUENCES OF TERMINATION

- 15.1 On the termination of the Contract by:
- 15.1.1 the Customer pursuant to clause 14.1.1 or 14.2; or
- 15.1.2 the Supplier pursuant to clause 14.1.2 or 14.2;
- or upon the expiry of the Service Term, the Customer shall be liable to pay immediately:
- (a) all invoices issued by the Supplier in respect of the supply of the Goods and/or Services by the Supplier to the Customer and which remain outstanding.
 - (b) any invoices raised by the Supplier subsequent to the termination or Expiry of the Contract but for which no invoice has been issued.
 - (c) all interest due to be paid on any invoices issued by the Supplier to the Customer pursuant to clause 9.10.

- (d) an administration fee of £15 for each connection which is ported to a new network or which terminates on the expiry of the Service Term (whether mobile or data or both);
- (e) an administration fee of £15 for each CLI (hosted or connectivity) which is ported to a new network or which terminates on the expiry of the Service Term;
- (f) 90% of the aggregate of all subscription, rental or other recurring charges that would have been paid by the Customer to the Supplier over the remainder of the Service Term but for the termination of the Contract.
- (g) any termination charges properly due and owing by the Customer to the Network.

15.2 On the termination of the Contract by either party for whatever reason or upon the expiry of the Service Term, in either case on a date other than on the last day of a month in which the Goods and/or Services were provided by the Supplier, the Customer shall not be entitled to a re-imbusement in respect of any unexpired period for which the Customer has made payment for the Goods and/or Services.

15.3 On the termination of the Contract by either party the Customer shall immediately make available to the Supplier for collection all of the Supplier's Equipment. In the event the Customer fails to do so, the Customer hereby authorises the Supplier's entry onto the Location or any premises of the Customer at which the Supplier reasonably believes the Supplier's Equipment is located and take possession of it or, at the Supplier's election, the Supplier shall be entitled to issue an Invoice to the Customer for the cost incurred by the Supplier in purchasing the Supplier's Equipment plus an additional amount of 15%, which the Customer shall be liable to pay in accordance with these Conditions. Until the Supplier's Equipment has been returned to the Supplier or until payment of an Invoice for the cost of the Supplier's Equipment pursuant to this clause 15.3, the Customer shall be solely responsible for its safe keeping and will not use it for any purpose not connected with this Contract.

15.4 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.

15.5 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.

16. FORCE MAJEURE

16.1 Save that this clause 16.1 shall not apply to any Charges due to be paid by the Customer to the Supplier, 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 including, without limitation, acts of God or natural disaster,

epidemic or pandemic, wars, strikes, riots, or acts of domestic or international terrorism (a **Force Majeure Event**).

- 16.2 The affected party shall have an obligation to notify the unaffected party in writing of the Force Majeure Event as soon as reasonably practicable after the commencement of the Force Majeure Event and must use reasonable endeavours to mitigate the effect of the Force Majeure Event.
- 16.3 When the Force Majeure Event has ceased the affected party shall notify the unaffected party that the terms of the Contract shall be reinstated in full.
- 16.4 If any Force Majeure Event continues for more than 12 months either party may, acting reasonably, suspend the Services under the Contract by providing 30 days' notice to the other party and provided that the Force Majeure Event has not ceased prior to the expiry of the notice the Contract shall be suspended as applicable.
- 16.5 On the ending of the Force Majeure Event any suspension shall be lifted upon which the parties' obligation pursuant to the contract shall resume and the Service Term, if applicable, shall be extended by the period for which the Contract was suspended.

17. GENERAL

17.1 Assignment and other dealings.

17.1.1 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.

17.1.2 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, such consent to be at the absolute discretion of the Supplier.

17.2 Notices.

17.2.1 Any notice or other communication 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) as notified to the other party.

17.2.2 Any notice or communication shall be deemed to have been received:

- (a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address; and
- (b) 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.

17.2.3 This clause 17.2 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.

17.3 **Severance.** If any provision or part-provision of the Contract or these Conditions 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-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause 17.3 shall not affect the validity and enforceability of the rest of the Contract or these Conditions.

17.4 **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.

17.5 **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.

17.6 **Entire agreement.**

17.6.1 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.

17.6.2 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 based on any statement in the Contract.

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

17.7 **Third party rights.** 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.

17.8 **Variation.**

17.8.1 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).

17.8.2 The Supplier may, from time to time, introduce new terms and conditions or amend existing terms and conditions. The Supplier will try to limit such new

terms and conditions to the extent necessary for the provision of the Goods/Services and will provide the Customer with reasonable notice before doing so.

- 17.9 **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.
- 17.10 **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.
- 17.11 **Legal Representative.** Unless otherwise stated the Supplier's solicitors are:

**Nockolds
35 Great St Helens
London
EC3A 6AP**

**Ref: JNB/360Coms
Telephone: 0203 892 6800
Email: jnb@nockolds.co.uk**

and whom are authorised by the Supplier to accept notices from the Customer. For the avoidance of doubt the authority provided in this clause shall not apply to the service of proceedings which must be served upon the Supplier at the Supplier's registered office.

SCHEDULE 1

VoIP/SIP SERVICES

The terms set out in this Schedule 1 apply to the provision of voice over internet protocol (VoIP) and, if relevant, session initiation protocol (SIP) telecommunications services, comprising of:

- the transmission of calls from the Customer's network via the Supplier's network to the network of a third party; and
- the sub-allocation of phone numbers to the Customer together with any other products or features that the Supplier may offer to the Customer from time to time and are supplementary to the Conditions ('**VoIP Services Terms**').

Any and all defined terms within the Conditions shall have the same meaning in these VoIP Services Terms unless otherwise stated.

1. SERVICE PROVISION

- 1.1 The VoIP Services allow the User to make and receive calls via the internet. If there is an internet connection or power failure the VoIP Service will also fail. This failure will be deemed to be beyond the Supplier's control and the Supplier will not be held liable for such failure.
- 1.2 The Customer acknowledges that the VoIP Service is not a PSTN telephone service and therefore the Customer may not be provided with all of the features available with a conventional telephone line.
- 1.3 The Customer acknowledges and accepts the following technical limits relating to User access to the Network:
- 1.3.1 it is impracticable to provide Network access to all Customers within the Territory; and
 - 1.3.2 the quality, performance and available features of the VoIP Service and any VoIP equipment may be affected by the Customer's broadband connection, its use of its network and the configuration of its internal network and equipment.
- 1.4 The Customer acknowledges that in the event of a power failure, it will not be possible to call the Emergency Services (112/999) using the VoIP Service.
- 1.5 The Supplier will take reasonable steps to ensure that its VoIP Service is fault free and uninterrupted.
- 1.6 The Supplier does not warrant that the VoIP Service is satisfactory or suitable for the Customer's purposes. All warranties relating to the VoIP Service, including implied warranties, are excluded to the fullest extent permissible by law.

1.7 The VoIP Service is subject to the provision of Customer Support in accordance with the Fixed Line Services Specific Service Conditions.

2. SUSPENSION OF SERVICES

2.1 The Supplier may suspend the VoIP Service in the event that, and for so long as, the Customer is in material breach of the Agreement and has failed to remedy the breach within the timeframe specified in the notice requiring remedy of the breach.

2.2 The Supplier may suspend all or any part of the VoIP Service without prior notice:

2.2.1 if there is a material and immediate threat to the integrity of the Supplier or the Network's network, systems or the PSTN;

2.2.2 to the extent necessary to comply with an order of a regulatory or law enforcement authority;

2.2.3 to the extent necessary to prevent or restrict fraudulent or illegal activity in connection with the VoIP Service;

2.2.4 in the event that it wishes to carry out maintenance, upgrade works or back-ups (in which case it will use all reasonable endeavours to minimise the impact on the Customer and to inform the Customer in advance of the suspension).

3. EQUIPMENT

3.1 The Contract does not operate to grant the Customer any right, title or interest in the Supplier's Equipment.

3.2 The Customer is responsible for ensuring suitable conditions for the installation of the VoIP equipment in accordance with the Supplier's reasonable instructions and in this regard clause 2 of Schedule 2 applies to these VoIP Services Terms as if set out in this clause in full.

4. CONNECTION OF EQUIPMENT TO THE SERVICE

4.1 Any equipment or software connected to the Network must be purchased from the Supplier and used in line with any relevant instructions, standards or applicable laws.

5. EMERGENCY ACCESS

5.1 Access to the Emergency Services (112/999) is included as part of the VoIP Service, subject to the Customer providing the Supplier with the information requested.

5.2 The Supplier accepts no liability for the Customer's failure to provide this information and any resulting consequences.

5.3 The Customer location information provided to the Supplier will be automatically provided to the Emergency Services during any calls the Customer makes to them, subject to the following:

- 5.3.1 for each phone line that the Customer utilises, the primary physical location where the VoIP Service will be used must be registered with the Supplier. This information shall be provided as part of the Customer's subscription to the VoIP Service;
 - 5.3.2 a primary site location will be registered for each new number. It is the Customer's responsibility to ensure that the Supplier has up-to-date information for each number on the Customer's account;
 - 5.3.3 if the Customer does not provide accurate information to the Supplier it may not be possible for Emergency Services operators and authorities to identify the Customer's location and phone number.
- 5.4 Power disruptions or failures will impair the Customer's ability to dial and Emergency Services numbers, including 112/999.

6. QUALITY ASSURANCE, CALL RECORDING AND DATA PROTECTION

- 6.1 At the request of the Customer the Supplier may record VoIP Service calls to monitor call quality.
- 6.2 The Customer is solely responsible for notifying all call participants that the call is being recorded and the purpose for which the recording is being made.
- 6.3 All call recordings are subject to the confidentiality provisions in clause 12 of the Conditions.
- 6.4 In relation to any recordings of calls made via the VoIP Service, the Supplier will be the data processor under clause 11 of the Conditions.

SCHEDULE 2
FIXED LINE SERVICES

The terms set out in this Schedule 2 apply to the provision of fixed line voice communication, broadband and call rate services and are supplementary to the Conditions (**'Fixed Line Services Terms'**).

Any and all defined terms within the Conditions shall have the same meaning in these Fixed Line Services Terms unless otherwise stated.

DEFINITIONS

In these Fixed Line Services Terms, in addition to the terms set out in the Conditions, the following definitions apply.

"Call-out Fee":	means, a fee chargeable to the Customer in accordance with clause 2.9 of this Schedule 2.
"Disconnection Notice":	a written notice from the Customer to the Supplier stating that they wish for a specific line to be disconnected from the Fixed Line Services;
"Fixed Line Services":	means, the provision of fixed line voice communication and broadband services, as set out in the Contract, and specified in this Schedule 2.
"Fixed Line Call Charges":	the call rates applicable to fixed line calls be provided on request by the Customer making a request to the following email address: helpdesk@360group.co.uk or which are otherwise available at: www.360group.co.uk ;

1. MIGRATION TO THE SUPPLIER'S SERVICE

- 1.1 Upon acceptance of the Order, the Supplier will notify the Customer of the estimated and projected timescale for completion. This shall include the installation, activation and migration to the Supplier's Fixed Line Services.
- 1.2 The Supplier will notify the Customer when such activities have been completed.
- 1.3 If the Customer requires a migration from an alternative supplier's service, to the Supplier's Fixed Line Service, the parties shall agree a migration plan.
- 1.4 Any charges incurred by the Supplier or the Network as a result of the steps taking pursuant to the migration plan shall be charged by the Supplier to the Customer.

2. PREPARATION, ACCESS AND INSTALLATION OF THE SITE

- 2.1 The supply of the Fixed Line Services shall be subject to satisfactory results of any survey or other investigation of the Site carried out by or on behalf of the Supplier.

- 2.2 If the Supplier determines based on its industry knowledge that it may not be able to provide the Fixed Line Services to certain geographic locations, it reserves its rights to cancel all or elements of the Fixed Line Services it is unable to provide, and refund all monies paid in respect of that particular element, or the entire Fixed Line Service, as appropriate.
- 2.3 Charges for Fixed Line Services are subject to degrees of variation depending on the outcomes of any such surveys and/or investigations. If as a result of any surveys and/or investigations, it becomes apparent that provision of the Fixed Line Services may incur additional cost due to any issues that would not be accounted for within the Charges, the Supplier shall be entitled to increase the Charges by such amount as is required to cover the additional costs.
- 2.4 If the Supplier's Equipment is to be installed at a Site for the provision of Fixed Line Services, then prior to installation the Customer shall:
- 2.4.1 provide a suitable place, conditions and connection points required by either the Supplier or the Network, for the Equipment and electricity at the Location in accordance with reasonable instructions provided by either the Supplier or the Network; and
- 2.4.2 comply with the Supplier's or the Network's reasonable instructions; and
- 2.4.3 obtain all necessary third-party consents in relation to building alternations/additions, access to land, permission to put the Supplier's Equipment up in the location specified, provided such consents are necessary to obtain.
- 2.5 The steps required pursuant to clause 2.4 shall be taken at the Customer's expense.
- 2.6 The Supplier will agree an appropriate time with the Customer for the Supplier or the Supplier's agent or contractor to undertake the installation.
- 2.7 The Customer hereby authorises the Supplier's installation, siting and use the Supplier's Equipment at the sites and locations specified by the Customer, and the Customer agrees that the Supplier and/or its agents or contractors may enter the Location to:
- 2.7.1 carry out any work that is necessary for the Supplier to connect, maintain, alter, replace or otherwise remove any of the Supplier's Equipment to supply the Fixed Line Services; and
- 2.7.2 inspect, maintain and replace any Supplier's Equipment installed by the Supplier pursuant to this clause 2.7.
- 2.8 The Supplier shall be entitled, at its discretion, to charge a Call-out Fee in the event the Customer:
- 2.8.1 cancel's a pre-scheduled appointment for installation and/or other services specified by this schedule, with less than 48 hours' notice; or

- 2.8.2 if the Supplier or its agent, contractor, or other authorised third party is unable to perform the services they had attended the Location for as a result of a step taken or not taken by the Customer.
- 2.9 The Customer will provide the Supplier with reasonable access to the Location for the purposes of performing its obligations under this Agreement.
- 2.10 The Customer will provide the Supplier with a suitable place and conditions for the Equipment, and continuous supply of mains electricity and connecting points, where required.
- 2.11 The Customer will notify the Supplier immediately of any changes that will alter, affect or other inhibit access to the Location. Failure to do so, will result in a Call-out Fee being charged if the Supplier is not able to access the Location at an agreed time.
- 2.12 The Customer will be liable for any damage caused to the Equipment by the Customer and will pay for any repair or replacement needed. This does not apply to damage as a result of normal use.
- 2.13 The Supplier will be liable for any damage caused to the Location and contents within by the Supplier and will pay for any repair or replacement needed. This does not apply to damage as a result of normal use.
- 2.14 The Customer will be responsible to make good the Location after any work has been undertaken. The Supplier will not be liable for any costs or expenses incurred in doing so.

3. WEEE REGULATIONS

- 3.1 The Customer will:
- 3.1.1 be responsible under Regulation 9 of the Waste Electrical and Electronic Equipment Regulations 2009 (“the WEEE Regulations”) for the costs of treatment, collection, recovery, recycling and environmentally sound disposal of any equipment supplied that has become subject to the WEEE Regulations;
 - 3.1.2 be responsible for any information recording or reporting obligations as imposed by WEEE;
 - 3.1.3 indemnify the Supplier against any costs (including reasonable legal costs), liability, claims, legal proceedings or expenses that are brought or threatened against the Supplier which would not have ordinarily been brought if the Customer had fulfilled its obligations under the WEEE Regulations.
- 3.2 The Supplier and the Customer acknowledge that for the purposes of Regulation 9 of the WEEE Regulations, the Contract is an agreement stipulating other than financing arrangements for the treatment, collection, recovery, recycling and environmentally sound disposal of any WEEE.

4. SERVICES

- 4.1 The Fixed Line Services will consist of:

- 4.1.1 PSTN services which shall be provided from the Network with a single and multi-line product portfolio;
- 4.1.2 Broadband services;
- 4.2 Broadband services shall:
 - 4.2.1 Be based on Broadband services, ADSL, ADSL2+, FTTC/Lease/EFM/Ethernet Services & NEW technologies; and
 - 4.2.2 Consist of access for the Customer to the Network and with bandwidth as specified in the Order.
- 4.3 The Customer acknowledges and duly accepts the following limitations to the provision of any such broadband services:
 - 4.3.1 Customer's access may affect the performance of some PSTN equipment;
 - 4.3.2 Transmission performance of some components will mean it is impossible in a practical and technical capacity to provide access to all Customers within the Territory;
 - 4.3.3 If all or part of the broadband services are provided via fibre optic cable or radio system, some services may not be available;
 - 4.3.4 Speeds of connection are fluid and can vary several times throughout the day;
 - 4.3.5 The Supplier has the right to use the Network to provide other services;
 - 4.3.6 The rates of usage can be monitored to ensure a fair use policy and the Supplier reserves its right to limit and/or suspend the broadband service if there is suspicion regarding whether the broadband is being used in accordance with the fair use policy.
 - 4.3.7 There may be a temporary loss of broadband during a migration from one operator to the Fixed Line Service. The Supplier will use reasonable endeavours to keep such loss to a minimum.

5. CUSTOMER SUPPORT

- 5.1 In the event that the Customer experiences any issues in respect of the Fixed Line Services, they should contact Customer Support via the following methods:
 - 5.1.1 Telephone;
 - 5.1.2 Online.
- 5.2 The Customer Support service offers the following assistance:
 - 5.2.1 Escalation of suspected Service issues;
 - 5.2.2 Reported slow speed queries;
 - 5.2.3 Broadband service queries;

- 5.2.4 Customer notification of network outages;
 - 5.2.5 Investigation of line faults;
 - 5.2.6 Issues with transition of the Network;
 - 5.2.7 Quality of the line service;
 - 5.2.8 Coding violation;
 - 5.2.9 Noise margin;
 - 5.2.10 Bit rates;
 - 5.2.11 Line checking in respect of poorly performing lines and connections;
 - 5.2.12 Escalation to third parties where necessary.
- 5.3 The Supplier will investigate via the Customer Support service, and if required, will engage the Network.
- 5.4 In such cases the Network may request to contact the Customer directly to arrange troubleshooting, or a visit at the location and/or site where the issue is persisting.
- 5.5 If the Network is required to undertake a site visit, the Customer will be responsible for any costs of the Network that may arise.

SCHEDULE 3

MOBILE SERVICES

The terms set out in this Schedule 3 apply to the provision of mobile voice and mobile data communication services and are supplementary to the Conditions (**'Mobile Services Terms'**).

Any and all defined terms within the Conditions shall have the same meaning in these Mobile Service Terms unless otherwise stated.

DEFINITIONS

The following definitions apply to these Mobile Service Terms:

- "Artificially Inflated Traffic"**: when the flow of calls to any particular service is, as a result of activity on or behalf of the entity using or operating that service, disproportionate to the flow of call which would be reasonably expected from good faith usage of the Network;
- "Call and Data Charges"**: the call and data charges applicable to Mobile Services provided on request by the Customer making a request to the following email address: helpdesk@360group.co.uk or which are otherwise available at: www.360group.co.uk;
- "Disconnection Notice"**: a written notice from the Customer to the Supplier stating that they wish for a specific SIM Card(s) to be disconnected from the Mobile Services;
- "Mobile Services"**: the provision of mobile voice and mobile data communication services, as set out in the Contract;
- "Territory"**: unless otherwise agreed, the United Kingdom.

1. COVERAGE AND PERFORMANCE

- 1.1 The Supplier cannot guarantee that the Customer's connection will reach any specific upload or download speed, which may or may not be affected by the factors listed in clause 1.2.
- 1.2 Connection speeds for broadband are subject to a range of factors, some not always in the Supplier's' control. These can include, but are not limited to coverage, signal strength, weather, physical obstructions and topographical intrusions.
- 1.3 The Supplier will not be responsible for any performance or coverage issues when the Customer is outside of the Territory.

2. SIM CARDS

- 2.1 The Supplier will supply the Customer with a quantity of SIM Cards (subject to availability) to allow the Customer to receive the Services provided for in the Contract.
- 2.2 The Customer acknowledges that the SIM Card(s), inclusive of the software within the SIM Cards, will remain the property of the Supplier or the Network.

- 2.3 The Customer shall not assign, transfer, charge, lease or otherwise deal in or encumber the SIM Cards in any way. The Supplier reserves its right to request that the Customer return the SIM Cards if the Supplier deems it necessary for maintenance or to enhance the Services offered.
- 2.4 If the Customer becomes aware that any SIM Cards provided by way of this Contract are lost and/or stolen or that any person is using the SIM Card in an improper and/or illegal manner, the Customer shall notify the Supplier of such circumstances immediately. The notification must be in writing and the Supplier reserves its right to suspend that SIM Card from making calls and to disconnect it from the Mobile Services.
- 2.5 The Customer will remain liable for making payment of all charges relating to the Mobile Services in accordance with the Conditions, including in the event of a SIM Card being lost or stolen.
- 2.6 The Supplier can, at its discretion, charge the Customer a fee for any and all replacement SIM Cards.
- 2.7 If fraudulent, illegal or otherwise improper use is suspected, the Supplier reserves its right to suspend, without notice, any SIM Card from use of the Mobile Services. This includes the use of any Equipment provided by the Supplier.
- 2.8 The Supplier will:
- 2.8.1 provide the Customer with mobile numbers which are necessary to facilitate the use of the SIM Cards and to receive the Mobile Services;
 - 2.8.2 port or transfer mobile numbers from another network in accordance with standard porting procedures in the United Kingdom; and
 - 2.8.3 pursuant to any notice given by the Customer under clause 14.1 subject to clause 15 of the Conditions the Supplier shall on or before the end of the Term, upon the Customer's request, port or transfer mobile numbers from the Network to another network, in accordance with standard porting procedures in the United Kingdom. However, it is agreed and acknowledged that the Supplier has no obligation to do so in circumstances where there are any outstanding sums that are due to the Supplier by the Customer.
- 2.9 In the event the Customer notifies the Supplier during the Service Term that it wishes to transfer any Mobile Services to an alternative Network the Supplier shall effect such transfer provided that the Supplier can supply the Mobile Services via its direct billing platform and subject to clause 2.10 below.
- 2.10 Each mobile or data connection transferred to an Alternative Network shall incur a charge of £50 per connection (which charge shall include the provision of a new SIM Card), which charge shall be invoiced by the Supplier and paid by the Customer in advance of the transfer taking place. The Supplier shall be under no obligation to effect the transfer until payment has been made.
- 2.11 In the event the transfer to an alternative Network cannot be effected via the Supplier's direct billing platform the Supplier shall have no obligation to transfer the Mobile Services to an alternative network and clauses 14 and 15 of the Conditions shall apply.
- 2.12 In effecting a transfer pursuant to clause 2.9 the Customer shall remain liable for any Network charges that may apply as a result of the transfer.

3. GSM GATEWAYS

- 3.1 The Customer and Users shall:
 - 3.1.1 Not use the Mobile Services in any such way to generate Artificially Inflated Traffic
 - 3.1.2 Not establish, install or use a GSM Gateway so that telecommunication services are provided via the GSM Gateway; and
 - 3.1.3 Follow the Supplier's instruction to facilitate the disconnection of any such GSM Gateway.
- 3.2 The Customer shall not use the Mobile Services for the purposes of advertising or marketing without complying with relevant and applicable legal and/or regulatory requirements.
- 3.3 The Supplier shall not be liable for the content of any text or data transmission sent to the Customer's SIM Cards which do not originate from the Supplier.
- 3.4 The Supplier reserves its rights to monitor the Customer usage of the Mobile Service for the purposes of controlling the Supplier's' credit risk and any exposure of the Customer to fraud.

4. MOBILE SERVICE CHARGES

- 4.1 Unless otherwise stated in the Order, Charges for Goods apply as follows to UK domestic calls:
 - 4.1.1 Call prices are quoted per minute;
 - 4.1.2 The duration per call will be determined by whole seconds, and any part second will be rounded up to the next whole second; and
 - 4.1.3 All calls are subject to a minimum Charge.
- 4.2 Charges are rounded up to the nearest £0.01 for calls, and VAT is added thereafter where applicable.
- 4.3 Mobile Services may operate for the Customer in other countries outside of the United Kingdom, if the Supplier or a Network has roaming enabled in other countries with other foreign network providers.
- 4.4 The Supplier shall not be liable for the quality, availability and/or coverage of Mobile Services whilst roaming.
- 4.5 When using Mobile Services whilst roaming the Customer will be liable to pay the Supplier's Call and Data Charges.
- 4.6 The Customer agrees not to use any equipment, including a GSM Gateway, or software to divert, route, forward or otherwise transfer any of the Mobile Services, to attempt to reduce or circumvent the Charges without the prior written consent of the Supplier.

5. TERMINATION OF MOBILE SERVICES

- 5.1 In addition to the rights of termination contained in the Conditions, the Customer can serve upon the Supplier at any time during the Term, a Disconnection Notice.
- 5.2 On receipt of a Disconnection Notice the Supplier will disconnect the relevant SIM Card from the Mobile Services within 30 days.
- 5.3 In the event that a Disconnection Notice is given prior to the expiry of the Term, the Supplier may charge a Termination Fee pursuant to clause 15 of the Conditions.

SCHEDULE 4

MICROSOFT ONLINE SERVICES

The terms set out in this Schedule 5 apply to the provision of online business management tools and applications provided by the Microsoft Corporation and are supplementary to the Conditions (**'Microsoft Online Services Terms'**).

Any and all defined terms within the Conditions shall have the same meaning in these Microsoft Online Services Terms unless otherwise stated.

"Subscription Agreement": means the agreement between Microsoft and the Customer.

1. MICROSOFT ONLINE SERVICES

- 1.1 The Microsoft Online Services are provided to the Customer directly by Microsoft pursuant to Microsoft's current Subscription Agreement.
- 1.2 As the Microsoft Online Services are provided directly by Microsoft, the Supplier shall have no liability to the Customers for any act, omission or failure of Microsoft whatsoever, including but not limited to:
 - 1.2.1 Any loss or corruption of the Customer's data whilst using the Microsoft Online Services; or
 - 1.2.2 Any security or data breach of the Customer whilst using the Microsoft Online Services.
- 1.3 The Customer shall indemnify the Supplier against any claim made by Microsoft against the Supplier in relation to any User's use of the Microsoft Online Services and against any other loss, claim or damage incurred by the Supplier arising from the use of the Microsoft Online Services by any User.
- 1.4 Nothing under this Agreement shall constitute the Supplier as an agent of the Customer or any User in relation to the Microsoft Online Services.

SCHEDULE 5
REPAIR SERVICES

The terms set out in this Schedule 6 apply to the provision of repair services for mobile appliances including the call out services and are supplementary to the Conditions (**'Repair Services Terms'**).

Any and all defined terms within the Conditions shall have the same meaning in these Repair Services Terms unless otherwise stated.

DEFINITIONS

In these Repair Services Conditions, in addition to the terms set out in the Conditions, the following definitions apply:

"Call-out Fee":	the fee payable for the attendance of the Repair Technician to the Customer's chosen location.
"Repair Technician":	a Supplier repair technician or a Supplier approved repair technician engaged by the Customer via the Supplier.
"Repair Services":	any Supplier repair service provided to the Customer by Supplier.

1. REPAIR CONDITIONS

- 1.1 Any repairs required to a mobile appliance purchased by the Customer direct from the manufacturer must be dealt with by the manufacturer directly.
- 1.2 Any mobile appliance purchased by the Customer via the Supplier will be eligible for servicing and repairs by the Supplier, subject to the terms of the Contract.
- 1.3 The Customer acknowledges that the Supplier is not an authorised service providers of any manufacturer and has no affiliation with any mobile appliance manufacturer. The Customer shall not hold the Supplier liable and shall indemnify the Supplier from any liability that may arise from any Repair Services to the fullest extent permitted by law.
- 1.4 The Supplier accepts no liability for any loss, amendment to or corruption of data or information which is stored on the Customer's mobile appliances, SIM or memory cards howsoever caused and it is the Customer's responsibility to ensure that its data has been sufficiently backed up prior to any Repair Services being undertaken.
- 1.5 The Customer is solely responsible for the removal of SIM/memory cards from its mobile appliances prior to Repair Services taking place.
- 1.6 The Customer acknowledges that any Repair Services carried out by the Supplier may render any manufacturer warranty void. The Supplier accepts no liability for this.
- 1.7 The Customer must inform the Supplier of the make, model and condition of their mobile appliances, including any repair or modification history. If the mobile appliance is not as described by the Customer, the Supplier reserves the right to apply additional charges to the Repair Services. These charges will be notified to the Customer in advance of services being provided.

- 1.8 The Supplier cannot guarantee that waterproof mobile appliances will remain waterproof after completion of the Repair Services.

2. CALL-OUT REPAIR SERVICES

- 2.1 If the Customer requires Repair Services to be provided to the Customer at a location of the Customer's choice, the Supplier will provide an estimate for the Repair Services required. The estimated price quoted to the Customer for the Repair Services is an indicative, non-binding price and which shall include the Call-out Fee. The final price for the Repair Services will be confirmed by the Repair Technician during the site visit.
- 2.2 If there is an increase to the estimated price, the Customer may decline the Repair Services and the Repair Services will not be carried out.
- 2.3 In the event the Repair Services are not carried out pursuant to clause 1.2, the Customer will be liable for the Call-out Fee.

3. IN-HOUSE REPAIR SERVICES

- 3.1 If the Customer requires Repair Services to be provided to the Customer by the Supplier at the Supplier's premises the Supplier will provide an estimate for the Repair Services required which is subject to change on inspection of the mobile appliance.
- 3.2 On receipt of a mobile appliance, the Supplier will inspect it and will notify the Customer if there is an increase to the price quoted. If there is an increase to the estimated price, the Customer may decline the Repair Services and the Repair Services will not be carried out.

4. DURATION AND SHIPPING

- 4.1 All times provided for performance of the Repair Services are estimates only and the Supplier will not be liable for any delay to completion of the Repair Services.
- 4.2 The Customer must check any mobile appliance shipped to it after Repair Services have been carried out. The Customer must notify the Supplier of any issues, in writing, within one day of receipt of the mobile appliance. Failure to do so will result in the Supplier accepting no liability for any fault in the repair.
- 4.3 The shipping of devices to the Supplier is the Customer's responsibility. Any damage/loss incurred to the mobile appliance during transit is the Customer's responsibility and the Supplier shall not be liable in this regard for this.
- 4.4 The Customer must remove all SIM and memory cards from the mobile appliances before sending them to the Supplier for repair.

5. REPAIR LOGISTICS

- 5.1 Except as provided by this clause 4, the Repair Services come with a 12 month parts and labour warranty. This warranty does not apply to diagnostic services or liquid damage repairs.
- 5.2 The warranty in clause 5.1 is limited to:
 - 5.2.1 screen/LCD and any other repaired or replaced parts that malfunction or do not work as designed; and/or
 - 5.2.2 the parts/services that were paid for by the Customer to the Supplier.
- 5.3 The warranty in clause 5.1 excludes:

- 5.3.1 any mishandling by the Customer that causes damage to the mobile appliance;
 - 5.3.2 water/liquid damage;
 - 5.3.3 damage/faults resulting from attempted Customer or third party repairs to the mobile appliance;
 - 5.3.4 software issues unrelated to the repair;
 - 5.3.5 any damage resulting from viruses or other malicious pieces of software;
 - 5.3.6 any jail broken or rooted device;
 - 5.3.7 waterproof devices;
 - 5.3.8 damage unrelated to the Repair Services; and/or
 - 5.3.9 any loss of data occurring as a result of the repair.
- 5.4 The warranty in clause 5.1 is only valid for the specific mobile appliances repaired under the Repair Services and for the original Customer; it is not transferrable across devices or to another party.
- 5.5 If any device is damaged irreparably by the Repair Services and payment has been made by the Customer, the Customer will be entitled to a refurbished device of equal or greater value to the damaged device, based on its model and condition, or the monetary equivalent of fair market value for the device.
- 5.6 In the event that the Repair Services have proved defective, the Customer shall:
- 5.6.1 contact the Supplier as soon as reasonably practicable after noticing the defect; and
 - 5.6.2 give the Supplier a reasonable opportunity to repair or fix any defect (which the Supplier will aim to do within 15 business days).

6. PARTS WARRANTY

- 6.1 The Supplier may provide the Customer with replacement parts (**'Parts'**) and accessories (**'Accessories'**) supplied by third parties. Parts and Accessories come with a 12 month warranty, subject to clause 5.2.
- 6.2 The warranty in clause 5.1 is limited to either a repair or replacement of the defective Parts or Accessories, at the Supplier's sole discretion. The warranty is not transferrable.
- 6.3 The warranty is conditional upon the Customer's notification to the Supplier of any warranty claim within 5 business days and complying with any warranty procedures.

7. CUSTOMER'S RIGHT TO CANCEL

- 7.1 The Customer has the right to cancel the Repair Services at any time before the Supplier has commenced the Repair Services by contacting the Supplier. The Supplier will confirm the cancellation in writing.
- 7.2 If the Customer cancels Repair Services under clause 7.1 and has made payment in advance for the Repair Services, the Supplier will refund the amount paid, less the postage cost incurred to return the mobile appliance to the Customer, or, in the case of the Call-out Repair Services, the amount paid less the call-out Fee.